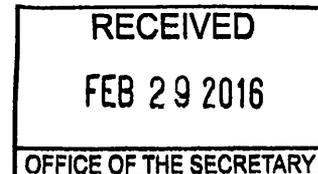


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16755

In the Matter of

SUCCESS TRADE, INC.,
SUCCESS TRADE SECURITIES,
INC. AND FUAD AHMED



**DIVISION OF ENFORCEMENT'S
POST-HEARING BRIEF**

Dean M. Conway
Christian D. H. Schultz
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
Tel: 202-551-4412 (Conway)
Fax: 202-772-9246 (Conway)
conwayd@sec.gov

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I. INTRODUCTION

Respondent Fuad Ahmed (“Ahmed”) was President and Chief Executive Officer of Respondent Success Trade Inc. (“STI”) and its subsidiary, Respondent Success Trade Securities (“STS”), a registered broker-dealer. The Commission has already found that Ahmed and his companies, from February 2009 through February 2013, illegally sold millions of dollars of unregistered securities as part of a scheme that defrauded at least fifty-seven investors out of nearly \$12.5 million. As part of this fraud, Ahmed intentionally lied to investors about how STI would use their money, telling them that it would be used to grow STI’s business when he instead was secretly misusing investors’ money to make millions of dollars of interest payments to earlier STI investors, pay hundreds of thousands of dollars of his personal expenses, give nearly \$100,000 to his brother, and fund the payroll and operations of the Investment Adviser that introduced dozens of defrauded investors to Ahmed and his companies. As the Commission found, Ahmed acted intentionally and with scienter in perpetrating an egregious fraud.

In his settlement with the Commission, Ahmed agreed not to publicly contest any of the findings of facts or conclusions of law in the Order Instituting Proceeding (OIP) that set forth his liability for fraud and the unregistered sale of securities.¹ On January 20, 2016, the Court held a remedies hearing to address the Division of Enforcement’s (“Division”) request that Ahmed be permanently barred from acting as an officer or director of a public company, participating in any penny stock offerings, and otherwise participating in the securities industry. The Court’s evaluation of the Division’s request is guided by the factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979). The undisputed findings in the OIP as well as the evidence presented at the January 20, 2016 hearing satisfy the *Steadman* factors and demonstrate that the Court should impose all the bars the Division is seeking.

¹ As the Court’s January 21, 2016 Post-Hearing Order explained, the findings of facts and conclusions of law set forth in the OIP are deemed true. Order at 2 ¶ 5.

1. ***The egregiousness of Ahmed's conduct.*** The Commission's findings establish the magnitude of Ahmed's illegal sale of unregistered securities and the scope of his efforts to defraud investors, misconduct that the Commission unequivocally found to be egregious. Div. Ex. 379 (OIP) ¶ 41.
2. ***The repeated nature of Ahmed's misconduct.*** The Commission's findings establish that Ahmed sold unregistered securities to scores of investors in more than 150 note agreements over a four year period that involved repeated, knowing misstatements and omissions and defrauded dozens of investors. *Id.* ¶¶ 12, 41.
3. ***The degree of scienter involved.*** The Commission unequivocally found that Ahmed acted intentionally in performing his fraudulent acts and either knew or was reckless in not knowing that he was making material misrepresentations or omitting material information in communications with investors. *Id.* ¶ 44.

On the *Steadman* factors not conclusively resolved by the OIP, the testimony and documents offered at the hearing overwhelmingly supports the Division's request for permanent bars.

4. ***Ahmed's recognition of the wrongful nature of his conduct.*** Ahmed's public statements since the OIP was filed, his admitted failure to pay any of his own money toward the \$27 million disgorgement and penalty imposed by his settlement, and his hearing testimony that either disputed or attempted to diminish virtually every one of his uncontested illegal acts, demonstrate that Ahmed does not recognize the wrongful nature of his conduct.
5. ***The likelihood that Ahmed's occupation will present opportunities for future violations.*** Ahmed made no objection to penny stock and securities industry bars and appears to principally seek to avoid an officer and director bar, because this bar would negatively affect his ability to pursue new business ventures, create

new companies, and solicit investors outside the United States. Allowing Ahmed the potential to ever maintain an officer or director position in a public company, however, would unquestionably afford him the opportunity to sell unregistered securities and defraud investors as he has done in this case.

Ahmed not only does not recognize or appreciate the wrongful nature of his conduct, but also professes that he will mislead future business associates by disputing the Commission's factual findings and his liability for violating the securities laws, and will suggest that this matter results from him being "singled out," "discriminated against," "overzealousness" and a "rush[] to judgment." Division's Proposed Findings of Fact ("DFOF") ¶ 32.. For these reasons and those that follow, the Division respectfully requests that the Court impose permanent bars against Ahmed to protect the public interest.

II. STATEMENT OF FACTS

A. Ahmed's Fraudulent Note Offering.

From February 2009 through at least February 2013, Ahmed, STI, and STS fraudulently offered and sold approximately \$20 million in STI promissory notes ("STI Notes") in unregistered, non-exempt transactions to at least sixty-five investors, including dozens of young professional athletes, some of whom were unsophisticated and/or unaccredited. Div. Ex. 379 (OIP) ¶¶ 1, 12; DFOF ¶ 34. Contrary to representations in private placement memoranda ("PPMs") that the money would be used to grow STI's business, Respondents misappropriated proceeds to make interest payments to earlier investors, pay Ahmed's personal expenses, give money to Ahmed's brother, and fund Investment Adviser A's payroll and operations. Div. Ex. 379 (OIP) ¶¶ 15, 16. In late 2012 and early 2013, as Respondents financial condition worsened, Ahmed further fraudulently induced some STI noteholders to convert their notes to equity or extend the term of their notes before the scheme ultimately collapsed in April 2013. *Id.* ¶¶ 23-33.

1. STI's Origin and Business Model.

Ahmed founded STI and STS in 1999. *Id.* ¶ 7. STS operated as a deep-discount broker under the trade names Just2Trade.com and LowTrades.com. *Id.* STS set its commission rates at less than \$5 per trade to build order volume, but it did not generate sufficient volume and rebate income from exchanges to offset – much less exceed – the losses STS was incurring from those low commissions. *Id.* STS was the only source of operational revenue for STI, but STS typically generated no more than half of the revenue needed for STI to be profitable. *Id.* ¶ 8.

STI lost money in every year of its existence except 2007, when it achieved a net positive income of just over \$200,000. *Id.* In 2008, STI had a net loss of more than \$600,000 and was in severe financial distress. *Id.* ¶ 9. That year, STI and Ahmed took loans totaling \$800,000, with annual interest rates of 50% to 53%, from a New York lender named Riaz Khokhar, who Ahmed called as a character witness at the hearing. *Id.* The loans' total \$800,000 principal exceeded STI's total revenue each year from 2004 through 2008. *Id.*

2. The STI Note Offering.

To repay the onerous 2008 loans from Khokhar and other STI debts, Respondents needed a new source of capital. *Id.* ¶ 10. In March 2009, Respondents, through Ahmed and registered representatives of STS working at Investment Adviser A, began offering STI Notes. *Id.* ¶ 11. Investment Adviser A typically introduced investors to STI, and all or substantially all of the STI noteholders were advisory clients of Investment Adviser A with brokerage accounts at STS. *Id.* In return, STI funded Investment Adviser A's operations, with the funds paid to Investment Adviser A tied to money raised from investors by soliciting STI Note purchases. *Id.* Most of Investment Adviser A's clients who invested in the STI Notes were young professional athletes, who, in some cases, were financially unsophisticated and did not qualify as accredited investors. *Id.* ¶ 12. From March 2009 through at least February 2013, Respondents offered and sold 152 STI Notes,

generating proceeds of approximately \$20 million, to at least sixty-five individual investors, who purchased in amounts ranging from \$6,500 to \$1 million. *Id.*

Respondents offered and sold each STI Note pursuant to one of several PPMs dated, respectively, January 1, 2009, February 1, 2009, September 29, 2009, and November 30, 2009. *Id.*

¶ 13. Ahmed personally drafted the PPMs without consulting a securities lawyer – albeit with help from a consultant who had experience using PPMs to sell securities but whom Ahmed could not say had any experience drafting PPMs – used the PPMs to solicit investors, and provided the PPMs to STS registered representatives for their use in soliciting investors. *Id.*; DFOF ¶ 36. The PPMs represented that the bulk of the proceeds of the STI Note offering would be used to grow and promote STI’s business, and included a chart purporting to show how 100% of the offering proceeds would be applied, including allocations for advertising, website development, data center infrastructure, other capital investments, share buyback and debt retirement, Div. Ex. 379 (OIP) ¶ 15:

	Amount	Percent of Proceeds
Proceeds from Sale of Notes	\$5,000,000	100.00%
Applications of Proceeds:		
Offering Expenses ¹	\$4,000	0.08%
Commissions ²	\$250,000	5.00%
Capital Investment in Success Trade Securities		
Advertising	\$2,000,000	40.00%
Web Site Development	\$10,000	0.20%
Capital Investment in BP Trade		
Data Center Infrastructure	\$500,000	10.00%
Software Programming	\$300,000	6.00%
Equipment	\$250,000	5.00%
Share Buyback & Debt Retire	\$1,500,000	30.00%
Legal, Accounting	\$6,000	0.12%
Working Capital	\$180,000	3.60%
TOTAL APPLICATION OF PROCEEDS	\$ 5,000,000	100%

The PPMs, however, contained material misrepresentations and made material omissions regarding the notes. *Id.* ¶ 14. Indeed, STI and Ahmed misled investors about how much money was being raised by STI, how that money would be used, how much debt the company was carrying, and provided no information about STI’s financial performance. Ahmed proceeded to misuse investors’ money for numerous purposes that were not described in the PPMs or otherwise disclosed to STI’s investors:

- a. paying roughly \$4 million in interest payments to earlier STI Note investors;
- b. paying roughly \$1.25 million to Investment Adviser A and its principal;
- c. paying more than \$800,000 of Ahmed’s personal expenses, including credit card balances, clothing, travel, \$1,300 Range Rover lease payments, including through so-called “officer loans” that were interest-free, unsecured, and undocumented; and
- d. giving roughly \$98,000 to Ahmed’s brother in unsecured and undocumented loans.

Id. ¶ 16.

3. Respondents Fraudulently Induced Noteholders with Maturing STI Notes to Roll-Over, Extend, or Convert the Notes into STI Common Stock.

By November 2012, Respondents were again facing severe financial pressure. *Id.* ¶ 23. As a result of its outstanding indebtedness, STI owed approximately \$155,000 in monthly interest payments, well exceeding its monthly revenues, while principal repayments on the three-year STI Notes issued in 2009 were beginning to come due. *Id.* Ahmed knew that STI lacked the funds to repay the principal on mature notes and to cover monthly interest payments. *Id.* From at least November 2012 through at least February 2013, Ahmed and STI persuaded some STI noteholders to extend their notes or to convert them into equity, typically by offering higher interest rates or lower conversion prices than were authorized by the PPMs. *Id.* ¶ 24.

While inducing investors to restructure their investments, STI and Ahmed knowingly or recklessly made additional misrepresentations and omissions of material fact and engaged in deceptive acts. *Id.* ¶ 25. In particular, Ahmed procured and told investors about a valuation of

another STI subsidiary, BP Trade, that was derived from dubious assumptions, and misled investors to believe it was a valuation of STI itself. *Id.* ¶¶ 25-28. They also falsely represented that STI was close to both publicly listing on a European exchange and purchasing an Australian broker-dealer, neither of which was imminent as no effort to actually list in Europe had taken place and STI lacked the funds to purchase the broker. *Id.* ¶¶ 25, 29, 32-33. STI and Ahmed also failed to disclose that note extensions or equity conversions were needed because the company was already unable to pay both the principal and interest due on the STI Notes, and did not disclose that STI could not pay the existing (much less the soon-to-be higher) interest rates on STI Notes without raising additional capital. *Id.* ¶¶ 25, 31, 34.

B. The FINRA Investigation, Sanctions Proceeding, and Ahmed’s Appeal.

On April 11, 2013, FINRA filed an enforcement action against STS and Ahmed, following an investigation by its enforcement staff, alleging violations of Section 5 of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder *based on the same misconduct at issue in these proceedings*. On June 25, 2014, a FINRA hearing panel found that STS and Ahmed had violated those provisions, ordered STS and Ahmed to pay approximately \$13.7 million in restitution, expelled STS from FINRA membership, and barred Ahmed from association with any FINRA member firm in any capacity. *See* DFOF ¶¶ 5, 6 Ahmed appealed the panel’s decision to FINRA’s National Adjudicatory Council (“NAC”) and the NAC affirmed the hearing panel’s decision in a lengthy decision. *See* DFOF ¶ 7 (Ahmed’s Oct. 9, 2015 Appeal to the SEC of FINRA’s NAC Decision (attaching NAC Decision)). On October 9, 2015 – after the Commission accepted Ahmed’s settlement offer and instituted an OIP reciting facts Ahmed agreed not to dispute or suggest were without factual basis, *see* DFOF ¶ 1 – Ahmed filed a *pro se* letter appealing the NAC decision to the Commission doing precisely what he agreed not to do. DFOF ¶ 8.

In his appeal of FINRA's NAC decision, Ahmed disputes numerous finding of facts and conclusions of law that were reached by both FINRA's hearing panel and its NAC – many of which were similarly reached by the Commission and set forth in the OIP – and argues that his liability derives from improper motivations and misconduct by FINRA investigators, FINRA's hearing panel, and FINRA's NAC. *Id at* ¶ 10. For example, while the Commission found that Ahmed misused investor funds to pay \$4 million to earlier STI investors, Div. Ex. 379 (OIP) ¶ 16(a), Ahmed argues in his appeal that FINRA's similar finding was “not true” and a “blatantly false statement[] unsupported by the evidence.” DFOF ¶ 13. Likewise, the Commission found that Ahmed created and disseminated a “misleading valuation report” that was “based on Ahmed's specious projections” and “unrealistic assumptions that [Ahmed] had personally supplied,” Div. Ex. 379 (OIP) ¶¶ 26, 42, yet Ahmed's appeal argues that a similar finding by FINRA was “clearly erroneous....” DFOF ¶ 17. The Commission found that Ahmed misled investors by falsely representing that STI would be listed on a European exchange and acquire an Australian broker-dealer in a matter of months when neither were remotely possible given STI's financial situation, Div. Ex. 379 (OIP) ¶¶ 25, 29, 32-33, yet Ahmed argues in his appeal that these were tenable opportunities and that “FINRA's actions resulted in destroying these opportunities.” DFOF ¶ 19. And where the Commission found that STS's registered representatives prepared accredited investor questionnaires for clients with inaccurate information “to create the false impression that STI Note purchasers were accredited or sophisticated when they were not,” Div. Ex. 379 (OIP) ¶ 40, Ahmed argues that FINRA's similar finding is “wholly unsupported by the evidence presented.” DFOF ¶ 23.

II. ARGUMENT

A. **Permanent Officer and Director, Associational, and Penny Stock Bars Against Ahmed are in the Public Interest.**

Securities Act Section 8A(f) and Exchange Act Section 21C(f) authorize the Commission to bar any person from serving as an officer or director of a public company if the person has committed a scienter-based violation of the Acts' antifraud provisions and his or her conduct demonstrates "unfitness." In evaluating a respondent's unfitness to serve as an officer or director, courts typically consider the following *Steadman* factors:

(1) the egregiousness of the defendant's actions, (2) the isolated or recurrent nature of the infraction, (3) the degree of scienter involved, (4) the sincerity of the defendant's assurances against future violations, (5) the defendant's recognition of the wrongful nature of his conduct, and (6) the likelihood that the defendant's occupation will present opportunities for future violations.

Steadman, 603 F.2d at 1140; *see also SEC v. Patel*, 61 F.3d 137, 141 (2d Cir.1995) (listing same factors for officer and director bar) (citation omitted). Exchange Act Section 15(b)(6) authorizes the Commission, if in the public interest, to bar any person associated with a broker or dealer from association with specified persons and entities, and from participation in a penny stock offering, if he or she willfully violated certain federal securities laws including the antifraud provisions.

Section 9(b) of the Investment Company Act authorizes the Commission, if in the public interest, to prohibit any person from serving or acting in specified capacities if such person violated certain federal securities laws including any provisions of the Securities Act or the Exchange Act. The *Steadman* factors similarly guide the determination of whether an associational securities industry and penny stock bars are in the public interest and appropriate.²

² *See, e.g., In the Matter of Edgar R. Page et al.*, Release No. 822, 2015 WL 3898161, at *3 (June 25, 2015) ("In determining whether a[n] [associational] bar is in the public interest, the following six factors outlined in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), must be considered . . ."); *SEC v. Indigenous Global Dev. Corp.*, No. C-06-05600, 2008 WL 8853722, at *18 (N.D. Cal. June 30, 2008) (applying *Steadman* factors and imposing permanent penny stock bar); *SEC v. Blackout Media Corp.*, No. 09-Civ-5454, 2012 WL 4051951, at *3 (S.D.N.Y. Sept. 14, 2012) (applying *Patel* factors and imposing permanent penny stock bar); *In the Matter of Vladimir Bugarski et al.*, Release No. 66842, 2012 WL 1377357, at *4 (April 20, 2012) (applying *Steadman* factors and affirming initial decision imposing permanent penny stock bar, among other relief); *In the Matter of Peter Siris*,

Ahmed's illegal sale of millions of dollars of unregistered securities, his efforts to defraud dozens of investors, his failure to accept responsibility for his egregious conduct, his inability to abide by the terms of his settlement agreement, and his failure to use any of his own money to pay the \$27 million damages award, demonstrate that he is not fit to ever again serve as an officer or director or participate in penny stock offerings and should be permanently barred from the securities industry.

1. Ahmed's Misconduct was Egregious, Repeated, and He Acted Intentionally and With a High Degree of Scier in Defrauding Investors.

The facts set forth above describe in detail the actions, misrepresentations, and material omissions made by Ahmed and his companies in defrauding at least fifty-seven investors out of more than \$12 million. *See* Div. Ex. 379 (OIP) Section V(C) and (D). For the purposes of the *Steadman* analysis, the Commission's findings in the OIP conclusively resolve the first three factors and require little discussion.

A. Ahmed's illegal sales and his fraud on investors were egregious. The OIP establishes that Ahmed abused his position as an officer and director of STI and STS to defraud investors out of more than \$12 million by offering and illegally selling nearly \$20 million of unregistered, non-exempt securities. *Id.* at ¶¶ 1, 35-40, 43, Section V(C) and (D). Ahmed's complex fraud involved multiple industry participants, sophisticated offering materials provided to investors that Ahmed knew or was reckless in not knowing were neither accredited nor sophisticated, and involved the creation and dissemination of a misleading valuation to these investors. *Id.* ¶¶ 42, 43. Accordingly, the Commission found Ahmed's misconduct to be "egregious". *Id.* ¶ 41.

Release No. 477, 2012 WL 6738469, at *4 (Dec. 31, 2012) (applying *Steadman* factors and imposing permanent penny stock bar); *In the Matter of Stanley Brooks and Brookstreet Securities Corp.*, Release No. 475, 2012 WL 6132660, at *3 (Dec. 11, 2012) (same).

- B. *Ahmed's fraud was repetitive and occurred over at least a four year period.*** Ahmed defrauded at least fifty-seven investors, using at least 152 separate note agreements, over the course of a four year period. *Id.* ¶¶ 1, 12, 41, Section V(C) and (D); DFOF ¶ 35. Thus, the Commission found that Ahmed's violations involved repeated knowing misstatements and omissions to investors over this extended period. Div. Ex. 379 (OIP) ¶ 41.
- C. *Ahmed acted with a high degree of scienter.*** Ahmed used investor money to make nearly \$4 million of undisclosed payments to earlier STI investors, make undisclosed payments to or for himself in excess of \$800,000, and secretly gave his brother nearly \$100,000 of investor money. *Id.* ¶ 16; DFOF ¶ 37. The Commission found that, in the process of defrauding investors, Ahmed *knew or was reckless in not knowing* that he was making material misrepresentations or omitting material information to investors, many of whom he *knew or was reckless in not knowing* were neither accredited nor sophisticated. Div. Ex. 379 (OIP) ¶¶ 22, 26, 32, 40. Moreover, Ahmed's violations "involved repeated *knowing* misstatements and omissions" and that he "*acted intentionally* in performing his fraudulent acts." *Id.* ¶¶ 41, 44.

2. Ahmed Continues to Deny Wrongdoing and Offers No Credible Assurances Against Future Violations.

At the hearing, Ahmed consistently denied the findings in the OIP while, at the same time, claiming that he had agreed to those findings and "signed off on them," pursuant to his settlement agreement with the Commission that he "will not take any action or make or permit to be made any public statement denying, directly or indirectly, any finding in the [OIP] or creating the impression that the [OIP] is without factual basis." DFOF ¶¶ 1, 38. Similarly, as reflected in documents he has submitted in related proceedings instituted after he settled this matter, Ahmed repeatedly has denied responsibility or deflected blame for the same misconduct identified in the Commission's OIP. *Id.* at ¶ 38. Such inconsistent positions and blatant denials demonstrate Ahmed's duplicity with the Commission in his settlement, his inability to comply with his agreement with the Commission, as

well as his obvious inability to accept the wrongful nature of his conduct and take meaningful responsibility for the harm he caused to investors.

- The Commission found that Ahmed “acted intentionally in performing his fraudulent acts.” Div. Ex. 379 (OIP) ¶44. At first, Ahmed testified that he was not disputing this finding, DFOF ¶ 11., but shortly thereafter repeatedly asserted that he did not intentionally deceive or mislead investors: “the key is intention . . . [n]ot even for a millisecond, fraction of a millisecond I intended of deceiving my investors.” *Id.* (“[T]he word that really – every day I think about is scienter, intentionally. Not even for a second did I want to mislead my investors. Not even for a millisecond.”).
- The Commission found that Ahmed intentionally misused investor money for the undisclosed purpose of “paying approximately \$4 million in interest payments to previous STI Note investors.” Div. Ex. 379 (OIP) ¶ 16(a). At the hearing, Ahmed conceded that he made the payments but disputed that they were undisclosed by arguing that the PPM’s disclosure about using money for \$1.5 million of share buy back shares and service debt “should have been further beefed up,” DFOF ¶ 12, and also that the PPM purportedly contains language (that Ahmed never offered into evidence at the hearing) that “management . . . at its sole discretion, [...] has the ability to use the funds.” *Id.*
 - In his Oct. 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed argues that FINRA’s finding that “Ahmed used the proceeds from later investors to pay interest to earlier investors” was “not true” and a “blatantly false statement[] unsupported by the evidence.” DFOF ¶ 13.
- The Commission found that Ahmed’s intentional misuse of investor money raised through the PPMs included “paying at least \$800,000 of Ahmed’s personal expenses, including credit card balances, clothing, and travel, through so-called ‘officer loans’ that were interest free, unsecured, and undocumented.” Div. Ex. 379 (OIP) ¶ 16(c). Ahmed disputed this finding when he testified that “the impression you’re giving is all of the \$800,000 came from the capital that I raised through the PPM and that is incorrect.” DFOF ¶ 14. Ahmed further disputed that he “intentionally misuse[d] investor money to pay [his] personal expenses.” *Id.*

- The Commission found that Ahmed intentionally misused investor money raised through the PPMs by “paying approximately \$98,000 in interest-free, unsecured, and undocumented loans to [his] brother.” Div. Ex. 379 (OIP) ¶ 16(d). Ahmed expressly disputed that he “intentionally misuse[d] investor money to give \$98,000 to [his] brother.” DFOF ¶ 15. Ahmed testified “it was a not a loan [to his brother] . . . [i]t was repaying the note back,” adding that his brother “had also lent money to me as well as to the company,” and then argued that FINRA’s misunderstanding of STI’s Quickbook records led to the Commission’s incorrect finding. *Id.*
- The Commission found that Ahmed intentionally “creat[ed] and disseminat[ed] a misleading valuation report.” Div. Ex. 379 (OIP) ¶ 42. Ahmed testified he disagreed with that finding, DFOF ¶ 16, and claimed “there’s an answer behind it that’s not misleading” and proceeded to argue that “[i]t’s FINRA’s thought process it’s misleading, but it’s not.” *Id.* (“I will give an explanation, but probably right now *as I’ve already disputed the valuation*, but I agreed to it. I signed off on it.”) (emphasis added). Ahmed later disputed the Commission finding that he “created the false impression that the valuation was of STI, not BP Trade,” Div. Ex. 379 (OIP) ¶ 42, claiming instead that he “told [investors] the valuation was for the [BP Trade] software...I believe it was the software,” DFOF ¶ 16, but then conceding that he lied to investors and told them it was a valuation of STI, *Id.*, rationalizing that doing so wasn’t a problem because STI was BP Trade’s holding company and STI’s valuation “would be higher.” *Id.*
 - The Commission also found that Ahmed’s valuation of BP Trade was “based on Ahmed’s specious projections,” that Ahmed “did not provide the consultant with any historical financial information,” and “consisted of a projection of BP Trade’s future cash flow in light of unrealistic assumptions that [Ahmed] had personally supplied.” Div. Ex. 379 (OIP) ¶ 26. In his October 9, 2015 appeal to Commission from FINRA’s NAC decision, Ahmed argues that FINRA’s finding that “the valuation of BP Trade was inaccurate based upon the financials being provided by Mr. Ahmed” was “clearly erroneous and no evidence was permitted in refutation.” DFOF ¶ 17.
- The Commission found that Ahmed intentionally misled investors when he told them STI would be listed on a European stock exchange when, at that time, STI had not

applied to any exchanges, registered or taken any steps towards registering or identified a market maker for the stock. Div. Ex. 379 (OIP) ¶ 32. Ahmed testified that this was “incorrect,” DFOF ¶ 18, and then proceeded to argue that FINRA and the SEC and the D.C. government misunderstood his situation, *Id.*, and complained that FINRA’s actions to stop his fraud destroyed his ability to complete such registration in the future. *See* DFOF ¶ 19. (“FINRA’s actions resulted in destroying [this] opportunit[y]”).

- The Commission found that Ahmed intentionally misled investors when he told them that STI would acquire an Australian online broker dealer by April 2013 because, at that time, “STI lacked the funds or financing commitments to fund the \$15.6 million purchase and had no reasonable expectation of obtaining such funds.” Div. Ex. 379 (OIP) ¶ 33. Ahmed said this was “incorrect because you have the letter, I gave you the letter from Westpac Bank saying they have the funding,” DFOF ¶ 20, and then vigorously argued that this incorrect finding stemmed from FINRA’s and the SEC’s failure to do a proper investigation to understand how the acquisition was being financed (even though Ahmed tellingly failed to call anyone from the bank to testify on his behalf before FINRA or in this proceeding). *Id.*

- In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed argues that “FINRA’s actions resulted in destroying [this] opportunit[y],” DFOF ¶ 21, and that FINRA “Enforcement’s Cease-and-Desist order after the first round of financing was completed . . . directly interfered with the completion of the second round of financing which would have enabled Respondents to acquire a profitable Australian broker-dealer.” *Id.*

- The Commission and FINRA both found that STI and Investment Adviser A orchestrated a quid pro quo where the adviser would get paid for bringing its clients in as investors in STI: “STI’s funding Investment Adviser A’s operations was tied to the funds Investment Adviser A raised by soliciting STI Note purchases.” Div. Ex. 379 (OIP) ¶ 11; DFOF ¶ 22 (FINRA found that payments made to Investment Adviser A and its principal “were in exchange for [their] efforts . . . to sell the notes to their clients”). In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed disputes these findings, claiming that “there is no testimony or evidence that the money lent was compensation for the notes sold. There was no written

contract, and there are no emails from Respondents accepting such an arrangement. [FINRA’s] Panelists have speculated and made assumptions, and then drawn false conclusions.” *Id.*

- The Commission found that “[m]ost of Investment Adviser A’s clients who invested in the STI notes were young professional athletes who, in some cases, were financially unsophisticated and did not qualify as accredited investors,” Div. Ex. 379 (OIP) ¶ 12, and that “STS’s registered representatives [who also worked at Investment Adviser A] completed accredited investor questionnaires with inaccurate information to create the false impression that STI Note purchasers were accredited or sophisticated when they were not.” *Id.* ¶ 40. In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed argues that a similar finding by FINRA that ““Success Trade registered representatives who sold the notes created inaccurate documentation to support the investors status as sophisticated and accredited investors”” is “wholly unsupported by the evidence presented.” DFOF ¶ 23.
- The Commission found that “Respondents, through Ahmed and registered representatives of STS working at Investment Adviser A, began offering the STI Notes.” Div. Ex. 379 (OIP) ¶ 11. In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed contradicts this finding, arguing that “[t]he [FINRA] Panel abused their discretion to hear this matter, as FINRA members STS and Ahmed did not offer or sell the promissory notes at issue, STI did.” DFOF 24.
- Ahmed called Riaz Khokhar as a putative character witness,³ claiming that he “was the second largest *investor* in Success Trade Inc.,” Tr. at 13:14-15 (statement of Mr. Saacke) (emphasis added), yet Khokhar testified unequivocally that the \$800,000 he gave to Ahmed “was *not an investment*. . . . It was a loan.” DFOF ¶ 25. In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed contradicts his position at the hearing, stating that STI had “*borrowed* roughly \$800,000” and discussed “the terms of the Khokhar *loan*.” *Id.* The Commission found that Ahmed’s \$800,000 loans from Khokhar “carried annual interest rates of 50% to 53%,” Div. Ex. 379 (OIP) ¶ 9, yet Ahmed argues that the FINRA “Panelists knowingly misrepresented the debt load . . .

³ Tellingly, Ahmed never told Khokhar about the Commission’s findings in the OIP, including Ahmed’s misuse of investor funds to pay his personal expenses, DFOF ¶ 27, and Khokhar agreed that if a company misused investor money “that would be fraud.” *Id.*

[had] an interest rate of 50%-53% per annum” because “the terms of the Khokhar loan was restructured . . . [and] [t]he 50% interest rate was immediately adjusted.” DFOF ¶ 26.⁴

- Ahmed also called William Davis, the largest investor in STI, as a putative character witness, but failed to advise Davis that Ahmed had reached a settlement in which he would not contest Commission findings that included his misuse of \$800,000 of investor money on his personal expenses, which Davis said “would cause me some concern as to his honesty and integrity” if true. DFOF ¶ 29.
- At the hearing, Ahmed professed his desire to “make [his] investors whole” – “the most important thing is to, you know, pay my investors back,” and that is something he “really, really want[s] to do.” DFOF ¶ 30 (“I wanted to make sure that my investors are made whole. That was the most important thing.”); *Id.* (“But the most important thing is my investors. They had nothing to do with it. . . . I need to pay these – regardless of how long it takes, I will pay them back. That’s the most important thing.”). Ahmed revealed the fallacy of his assertions, however, when he admitted that he has made no effort whatsoever to actually make amends to a single harmed investor and has not contributed anything – *not one dollar out of his own pocket* – to pay down the \$27 million liability imposed by the Commission when the OIP was entered on August 14, 2015. DFOF ¶ 30.

Ahmed’s testimony at the hearing, and the statements made in his appeal to the Commission of FINRA’s NAC decision, demonstrates by a preponderance of the evidence (if not beyond a reasonable doubt) that Ahmed does not recognize the wrongful nature of the egregious, harmful, and long-running fraud that he orchestrated and executed through his companies. *Id.* at ¶ 39.

Moreover, the denials in his appeal and at the hearing demonstrate the falsity of his representations

⁴ Ahmed testified that Khokhar had tried to buy the STS broker-dealer from Ahmed “for \$10.5 million, until FINRA intimidated, threatened, and harassed him not to buy the broker-dealer. My investors would have been paid off.” DFOF ¶ 28. In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed similarly argued that FINRA “Panelists knew that the valuation of the company was high enough for debt holder Riaz Khokhar to offer to purchase [STI] for a price that would have repaid debtholders. . . .” *Id.* However, the Commission found Ahmed owed STI’s defrauded investors roughly \$12.8 million, Div. Ex. 379 (OIP) at 11 § V(C), and Khokhar testified that he was not giving Ahmed any money, *Id.*, and would only “assume \$10 million of money that [Ahmed] owes to the note holders and . . . would pay the over three to five years,” *Id.*, without providing any personal guarantee on the loans. *Id.*

to the Commission in his settlement offer and his total failure to abide by the terms of the settlement agreement. Further, Ahmed made clear that he will continue to breach his settlement agreement and dispute the Commission's facts and findings in the OIP when dealing with future business associates – "I will give [people] my side of the story just like what I am doing today. I have been singled out, I have been discriminated against. . . . [M]y case is about overzealousness. My case is about rushing to judgment. My case is about let's go out and get this guy." DFOF ¶ 32. In short, Ahmed's failure to "recognize the wrongfulness of [his] conduct [as well as his demonstrated lack of candor and inability to comply with the terms of his settlement] presents a significant risk that, given th[e] opportunity, he would commit further misconduct in the future," *In the Matter of Michael J. Markowski*, Release No. 34-44086, 2001 WL 267660, at *4 (Mar. 20, 2001), and underscores the need for permanent bars.⁵

3. Opportunities for Future Violations

In his counsel's opening statement, Ahmed pleads for the right to be an officer or director of a public company again in the future, but never contested that he should be permanently barred from working in the securities industry or to participate in penny stock offerings. *See* Tr. at 14:9-14 (statement of Mr. Saacke that Ahmed "should be entitled to be an officer and director of a

⁵ Emblematic of Ahmed's unwillingness to acknowledge his wrongdoing and take responsibility for his misconduct were his repeated claims that frauds committed by Goldman Sachs and others on Wall Street do not result in bars being imposed against the companies or any individuals: "I'm not Goldman Sachs where they commit fraud every week, they settle, they go on, they commit fraud. . . . I don't have unlimited resources to take you guys on. That's the problem. It's not a fair justice system, but I've got to deal with it." DFOF ¶ 41; *see also, e.g., Id.* ("I'm not Goldman Sachs. I'm not, you know, Credit Suisse Bank of America, Merrill Lynch. They still commit fraud. Every month you hear a story about them. They just settled on CDOs and CMOs. Next month you find out about customers on market orders and limit orders and guess what happens? No action. What do they do? They just sell off those market making operations. They get away with crime. Just give them money to commit more fraud."); *Id.* ("You're telling me Goldman Sachs and Credit Suisse and Bank of America and John Corzine, who commingled customers' funds, the guy is running around free. Nothing happened to him."); *Id.* ("Here I'm being made an example of. Last week Goldman Sachs settled for \$5.1 billion and did anybody get barred? Did anybody go to jail? Did anybody get sanctioned? No. But I am being barred, my name is destroyed, I'm calling a Ponzi scheme. Come on, that's fair? You call that American justice? What kind of justice is that?"); *Id.* ("I don't know about . . . how the SEC comes up with a \$12 million fine against me but you guys don't come up with that kind of fine against Goldman Sachs.").

public company if the opportunity presents itself”).⁶ Ahmed then testified about how important it was for him to be able to serve as an officer or director of a public company, claiming that it might help increase his ability to repay investors. DFOF ¶ 31. His desires notwithstanding, Ahmed’s violations unequivocally resulted from his abuse of his position as an officer and director of his companies. Div. Ex. 379 (OIP) at ¶ 43; DFOF ¶ 43 (“Q. Do you agree that you abused your position as an officer and director? A. Yes.”). Indeed, through his position as an officer and director of his companies, Ahmed directed their participation in his fraud, and misused his authority to authorize his companies to make knowing misrepresentations and omissions. Div. Ex. 379 (OIP) at ¶ 43; DFOF ¶ 43.

Further, as explained above, Ahmed wants to continue to serve as an officer and director in order to raise money from new investors to repay his defrauded investors. Ahmed’s fraud was lucrative and allowed him to raise substantial sums of money. These facts alone establish the opportunity for Ahmed to commit future violations. In addition, however, Ahmed now plans to mislead future business associates by disputing or contradicting the Commission’s findings and telling them instead that this matter results from him being “singled out,” “discriminated against,” and from “overzealousness. . . . [and] rushing to judgment.” DFOF ¶ 42. Under these circumstances, unless Ahmed is subject to a permanent associational bar, penny stock bar, and an officer and director bar, there is a strong likelihood that he will commit further violations of the antifraud provisions. *Id.* at ¶ 45. Accordingly, permanent bars are the remedy best suited to serve the public interest and ensure that Ahmed cannot violate the federal securities laws again in the future.

⁶ See also Tr. at 14:19:23 (statement of Mr. Saacke that Khokhar “believes that it is proper to allow Mr. Ahmed to continue working in the industry as an officer and a director”); Tr. at 15:6-10 (statement of Mr. Saacke that satisfying the sanctions already imposed “may require him to be an officer and director of a public company”).

IV. CONCLUSION

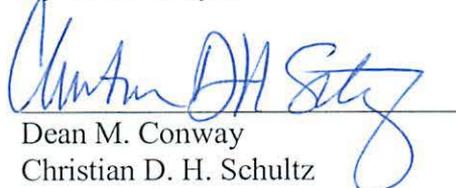
For the foregoing reasons, the Division respectfully requests that the Court issue an order permanently barring Ahmed from: (1) acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act; (2) participating in any offering of a penny stock; and participating in the securities industry by either (3) being associated with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; or (4) serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

Dated: February 29, 2016

Respectfully submitted,

DIVISION OF ENFORCEMENT

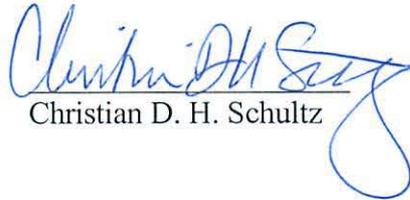
By its Attorneys:



Dean M. Conway
Christian D. H. Schultz
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
Tel: 202-551-4740 (Schultz)
Fax: 202-772-9246 (Schultz)
schultzc@sec.gov

CERTIFICATE OF SERVICE

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, DC 20549, and that a true and correct copy of the foregoing has been served by email this 29th day of February, 2016 on William C. Saacke, Esq., 4645 Larwin Avenue, Cypress, California 90630 and by email on the Honorable Jason Patil.


Christian D. H. Schultz

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16755

In the Matter of

SUCCESS TRADE, INC., SUCCESS
TRADE SECURITIES, INC. AND
FUAD AHMED

Respondents.

**Division of Enforcement's
Proposed Findings of Fact
And Conclusions of Law¹**

I. FINDINGS OF FACTS

A. Ahmed Publicly Disputes His Fraudulent Misconduct.

1. In July 6, 2015 Offers of Settlement, Respondents Fuad Ahmed (“Ahmed”), Success Trade Inc. (“STI”), and Success Trade Securities (“STS”), explicitly agreed that they “will not take any action or make or permit to be made any public statement denying, directly or indirectly, any finding in the [OIP] or creating the impression that the [OIP] is without factual basis.” Div. Ex. 351 at 6 § VIII.
2. On August 14, 2015, the Commission filed the OIP in this matter. Div. Ex. 379.
3. In April 2013, FINRA filed a complaint against Ahmed and STS alleging violations of Section 5 of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. June 25, 2014 FINRA Hearing Panel Decision at 9 (Attached hereto as Exhibit 1).

¹ In accordance with the Court’s Post-Hearing Order, the Division’s proposed findings of fact and conclusions of law contained herein relate only to the “sanctions assessment at issue” and are only “additional [to] those in the OIP,” which the Court already “deem[ed] true.” Jan. 21, 2016 Post-Hearing Order at 2 ¶ 5.

4. In August 2013, a FINRA hearing panel conducted a hearing against Ahmed and STS. Exhibit 1, at 8 n.3.
5. On June 25, 2014, the FINRA hearing panel found that STS and Ahmed had violated Section 5 of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder based on the same misconduct at issue in these proceedings. *See Id.* at ST-FINRA-026075-76.
6. The FINRA Hearing Panel ordered STS and Ahmed to pay approximately \$13.7 million in restitution, expelled STS from FINRA membership, and barred Ahmed from association with any FINRA member firm in any capacity. *See Id.*
7. Ahmed appealed the FINRA hearing panel's decision to FINRA's National Adjudicatory Council ("NAC"). On September 25, 2015, FINRA's NAC affirmed the hearing panel's decision in a lengthy decision. *See Div. Ex. 393 (Ahmed's Oct. 9, 2015 Appeal to the SEC of FINRA's NAC Decision) (NAC Decision attached).*
8. On October 9, 2015, Ahmed filed a six-page *pro se* letter appealing the NAC decision to the Commission. Div. Ex. 393
9. In his October 9, 2015 appeal of FINRA's NAC decision, Ahmed disputes his liability for the same misconduct at issue in the OIP for this proceeding, disputes FINRA's hearing panel and NAC's finding of facts and conclusions of law, many of which were similarly reached by the Commission in the OIP in matter. Div. Ex. 393.
10. In his October 9, 2015 appeal of FINRA's NAC decision, Ahmed argues that his liability derives from improper motivations and misconduct by FINRA investigators, FINRA's hearing panel, and FINRA's NAC. Div. Ex. 393.

11. The Commission found that Ahmed “acted intentionally in performing his fraudulent acts.” Div. Ex. 379 (OIP) ¶¶ 41, 44. At the hearing in this matter, Ahmed first testified that he was not disputing this finding, Jan. 20, 2016 Hearing Transcript (“Tr.”)² at 123:11-124:6, but then shortly thereafter repeatedly asserted that he did not intentionally deceive or mislead investors: “the key is intention . . . [n]ot even for a millisecond, fraction of a millisecond I intended of deceiving my investors.” Tr. at 136:21-24; *see also, e.g.*, Tr. 160:15-18 (“[T]he word that really – every day I think about is scienter, intentionally. Not even for a second did I want to mislead my investors. Not even for a millisecond.”).
12. The Commission found that Ahmed intentionally misused investor money for the undisclosed purpose of “paying approximately \$4 million in interest payments to previous STI Note investors.” Div. Ex. 379 (OIP) ¶ 16(a). At the hearing, Ahmed disputed that these payments were undisclosed by arguing that the PPM’s disclosure about using money for \$1.5 million of share buy back shares and service debt “should have been further beefed up,” Tr. at 52:8-14, and also that the PPM purportedly contains language (that Ahmed never offered into evidence at the hearing) that “management . . . at its sole discretion, [...] has the ability to use the funds.” Tr. at 53:24-54:6.
13. In his Oct. 9, 2015 appeal to Commission from FINRA’s NAC decision, Ahmed argues that FINRA’s finding that “Ahmed used the proceeds from later investors to pay interest to earlier investors” was “not true” and a “blatantly false statement[] unsupported by the evidence.” Div. Ex. 393 at 2 ¶ 5.
14. The Commission found that Ahmed’s intentional misuse of investor money raised through the PPMs included “paying at least \$800,000 of Ahmed’s personal expenses, including credit card balances, clothing, and travel, through so-called ‘officer loans’ that were interest

² Cited portions of the Jan. 20, 2016 Hearing Transcript are attached hereto as Exhibit 2

free, unsecured, and undocumented.” Div. Ex. 379 (OIP) ¶ 16(c). Ahmed disputed this finding when he testified that “the impression you’re giving is all of the \$800,000 came from the capital that I raised through the PPM and that is incorrect.” Tr. at 146:19-21; 147:24-149:25. Ahmed further disputed that he “intentionally misuse[d] investor money to pay [his] personal expenses.” Tr. at 161:8-12.

15. The Commission found that Ahmed intentionally misused investor money raised through the PPMs by “paying approximately \$98,000 in interest-free, unsecured, and undocumented loans to [his] brother.” Div. Ex. 379 (OIP) ¶ 16(d). Ahmed expressly disputed that he “intentionally misuse[d] investor money to give \$98,000 to [his] brother.” Tr. at 161:16-162:1. Ahmed testified “it was a not a loan [to his brother] . . . [i]t was repaying the note back,” adding that his brother “had also lent money to me as well as to the company,” and then argued that FINRA’s misunderstanding of STI’s Quickbook records led to the Commission’s incorrect finding. Tr. at 139:8-140:24.
16. The Commission found that Ahmed intentionally “creat[ed] and disseminat[ed] a misleading valuation report.” Div. Ex. 379 (OIP) ¶ 42. Ahmed testified he disagreed with that finding, Tr. at 126:20-24, and claimed “there’s an answer behind it that’s not misleading” and proceeded to argue that “[i]t’s FINRA’s thought process it’s misleading, but it’s not.” Tr. at 152:12-19; Tr. at 156:12-21 (“I will give an explanation, but probably right now *as I’ve already disputed the valuation*, but I agreed to it. I signed off on it.”) (emphasis added). Ahmed later disputed the Commission finding that he “created the false impression that the valuation was of STI, not BP Trade,” Div. Ex. 379 (OIP) ¶ 42, claiming instead that he “told [investors] the valuation was for the [BP Trade] software...I believe it was the software,” Tr. at 153:18-23, but then conceding that he lied to investors and told

them it was a valuation of STI, Tr. at 154:21-156:4, rationalizing that doing so wasn't a problem because STI was BP Trade's holding company and STI's valuation "would be higher." Tr. at 155:9-20.

17. The Commission also found that Ahmed's valuation of BP Trade was "based on Ahmed's specious projections," that Ahmed "did not provide the consultant with any historical financial information," and "consisted of a projection of BP Trade's future cash flow in light of unrealistic assumptions that [Ahmed] had personally supplied." Div. Ex. 379 (OIP) ¶ 26. In his October 9, 2015 appeal to Commission from FINRA's NAC decision, Ahmed argues that FINRA's finding that "the valuation of BP Trade was inaccurate based upon the financials being provided by Mr. Ahmed" was "clearly erroneous and no evidence was permitted in refutation." Div. Ex. 393 at 3 ¶ 7.
18. The Commission found that Ahmed intentionally misled investors when he told them STI would be listed on a European stock exchange when, at that time, STI had not applied to any exchanges, registered or taken any steps towards registering or identified a market maker for the stock. Div. Ex. 379 (OIP) ¶ 32. Ahmed testified that this was "incorrect," Tr. at 157:22-158:5, and then proceeded to argue that FINRA and the SEC and the D.C. government misunderstood his situation, Tr. at 158:9-160:7, and complained that FINRA's actions to stop his fraud destroyed his ability to complete such registration in the future.
19. In his October 9, 2015 appeal to Commission from FINRA's NAC decision, Ahmed argues that "FINRA's actions resulted in destroying [this European stock exchange] opportunit[y]." Div. Ex. 393 at 1 ¶ 1.
20. The Commission found that Ahmed intentionally misled investors when he told them that STI would acquire an Australian online broker dealer by April 2013 because, at that time,

“STI lacked the funds or financing commitments to fund the \$15.6 million purchase and had no reasonable expectation of obtaining such funds.” Div. Ex. 379 (OIP) ¶ 33. Ahmed said this was “incorrect because you have the letter, I gave you the letter from Westpac Bank saying they have the funding,” Tr. at 164:22-165:5, and then vigorously argued that this incorrect finding stemmed from FINRA’s and the SEC’s failure to do a proper investigation to understand how the acquisition was being financed (even though Ahmed tellingly failed to call anyone from the bank to testify on his behalf before FINRA or in this proceeding). Tr. at 164:22-169:15.

21. In his October 9, 2015 appeal to Commission from FINRA’s NAC decision, Ahmed argues that “FINRA’s actions resulted in destroying [this Australian broker-dealer] opportunit[y],” Div. Ex. 393 at 1 ¶ 1, and that FINRA “Enforcement’s Cease-and-Desist order after the first round of financing was completed . . . directly interfered with the completion of the second round of financing which would have enabled Respondents to acquire a profitable Australian broker-dealer.” *Id.* at 3 ¶ 8.
22. The Commission and FINRA both found that STI and Investment Adviser A orchestrated a quid pro quo where the adviser would get paid for bringing its clients in as investors in STI: “STI’s funding Investment Adviser A’s operations was tied to the funds Investment Adviser A raised by soliciting STI Note purchases.” Div. Ex. 379 (OIP) ¶ 11; Div. Ex. 393 at 4-5 ¶ 15 (FINRA found that payments made to Investment Adviser A and its principal “were in exchange for [their] efforts . . . to sell the notes to their clients”). In his October 9, 2015 appeal to the Commission from FINRA’s NAC decision, Ahmed disputes these findings, claiming that “there is no testimony or evidence that the money lent was compensation for the notes sold. There was no written contract, and there are no emails from Respondents

accepting such an arrangement. [FINRA's] Panelists have speculated and made assumptions, and then drawn false conclusions." Div. Ex. 393 at 4-5 ¶ 15.

23. The Commission found that "[m]ost of Investment Adviser A's clients who invested in the STI notes were young professional athletes who, in some cases, were financially unsophisticated and did not qualify as accredited investors," Div. Ex. 379 (OIP) ¶ 12, and that "STS's registered representatives [who also worked at Investment Adviser A] completed accredited investor questionnaires with inaccurate information to create the false impression that STI Note purchasers were accredited or sophisticated when they were not." *Id.* ¶ 40. In his October 9, 2015 appeal to the Commission from FINRA's NAC decision, Ahmed argues that a similar finding by FINRA that "Success Trade registered representatives who sold the notes created inaccurate documentation to support the investors status as sophisticated and accredited investors" is "wholly unsupported by the evidence presented." Div. Ex. 393 at 2 ¶ 4.
24. The Commission found that "Respondents, through Ahmed and registered representatives of STS working at Investment Adviser A, began offering the STI Notes." Div. Ex. 379 (OIP) ¶ 11. In his October 9, 2015 appeal to the Commission from FINRA's NAC decision, Ahmed contradicts this finding, arguing that "[t]he [FINRA] Panel abused their discretion to hear this matter, as FINRA members STS and Ahmed did not offer or sell the promissory notes at issue, STI did." Div. Ex. 393 at 5 ¶ 17.
25. Ahmed called Riaz Khokhar as a putative character witness, claiming that he "was the second largest *investor* in Success Trade Inc.," Tr. at 13:14-15 (statement of Mr. Saacke) (emphasis added). Khokhar testified unequivocally that the \$800,000 he gave to Ahmed "was *not an investment*. . . . It was a loan." Tr. at 74:5-8. In his October 9, 2015 appeal to

the Commission from FINRA's NAC decision, Ahmed contradicts his position at the hearing, stating that STI had "*borrowed* roughly \$800,000" and discussed "the terms of the Khokhar *loan*." Div. Ex. 393 at 5 ¶ 16.

26. The Commission found that Ahmed's \$800,000 loans from Khokhar "carried annual interest rates of 50% to 53%," Div. Ex. 379 (OIP) ¶ 9, yet Ahmed argues in his October 9, 2015 appeal to the Commission from FINRA's NAC decision that the FINRA "Panelists knowingly misrepresented the debt load . . . [had] an interest rate of 50%-53% per annum" because "the terms of the Khokhar loan was restructured . . . [and] [t]he 50% interest rate was immediately adjusted." Div. Ex. 393 at 5 ¶ 16.
27. Ahmed never told Khokhar about the Commission's findings in the OIP, including Ahmed's misuse of investor funds to pay his personal expenses, Tr. at 93:16-94:6, and Khokhar agreed that if a company misused investor money "that would be fraud." Tr. at 95:24-96:2.
28. Ahmed testified that Khokhar had tried to buy the STS broker-dealer from Ahmed "for \$10.5 million, until FINRA intimidated, threatened, and harassed him not to buy the broker-dealer. My investors would have been paid off." Tr. at 154:6-9. In his October 9, 2015 appeal to the Commission from FINRA's NAC decision, Ahmed similarly argued that FINRA "Panelists knew that the valuation of the company was high enough for debt holder Riaz Khokhar to offer to purchase [STI] for a price that would have repaid debtholders. . . ." Div. Ex. 393 at 3 ¶ 9. However, the Commission found, Ahmed owed STI's defrauded investors roughly \$12.8 million, Div. Ex. 379 (OIP) at 11 § V(C), and Khokhar testified that he was not giving Ahmed any money, Tr. at 82:5-7, and would only "assume \$10 million of money that [Ahmed] owes to the note holders and . . . would pay the over three to five

years,” Tr. at 81:21-24, without providing any personal guarantee on the loans. Tr. at 83:5-20.

29. Ahmed called William Davis, the largest investor in STI, as a putative character witness, but failed to advise Davis that Ahmed had reached a settlement in which he would not contest Commission findings that included his misuse of \$800,000 of investor money on his personal expenses, which Davis said “would cause me some concern as to his honesty and integrity” if true. Tr. at 115:23-117:22.
30. At the hearing, Ahmed professed his desire to “make [his] investors whole” – “the most important thing is to, you know, pay my investors back,” and that is something he “really, really want[s] to do.” Tr. at 261:1-9; Tr. at 218:1-2 (“I wanted to make sure that my investors are made whole. That was the most important thing.”); Tr. at 221:24-222:5 (“But the most important thing is my investors. They had nothing to do with it. . . . I need to pay these – regardless of how long it takes, I will pay them back. That’s the most important thing.”). Ahmed admitted that he has made no effort to actually make amends to a single harmed investor and has not contributed a single dollar out of his own pocket to pay down the \$27 million liability imposed by the Commission when the OIP was entered on August 14, 2015. Tr. at 187:12-188:8; 263:1-264:4.
31. Ahmed seeks the right to be an officer or director of a public company again in the future. *See* Tr. at 14:9-14 (statement of Mr. Saacke that Ahmed “should be entitled to be an officer and director of a public company if the opportunity presents itself). Ahmed testified that it was important for him to be able to serve as an officer or director of a public company to help increase his ability to repay investors. Tr. at 223:9-224:17.

32. Ahmed testified that he will dispute the Commission's facts and findings in the OIP when dealing with future business associates – "I will give [people] my side of the story just like what I am doing today. I have been singled out, I have been discriminated against.... [M]y case is about overzealousness. My case is about rushing to judgment. My case is about let's go out and get this guy." Tr. at 225:2-11.
33. Ahmed has not contested that he should be permanently barred from working in the securities industry or to participate in penny stock offerings.

II. CONCLUSIONS OF LAW

A. Ahmed's illegal sales and his fraud on investors were egregious.

34. The OIP establishes that Ahmed abused his position as an officer and director of STI and STS to defraud investors out of more than \$12 million by offering and illegally selling nearly \$20 million of unregistered, non-exempt securities. Div. Ex. 379 ¶¶ 1, 35-40, 43 Section V(C) and (D). Ahmed's complex fraud involved multiple industry participants, sophisticated offering materials provided to investors that Ahmed knew or was reckless in not knowing were neither accredited nor sophisticated, and involved the creation and dissemination of a misleading valuation to these investors. *Id.* ¶¶ 42, 43. Accordingly, the Commission found Ahmed's misconduct to be "egregious." *Id.* ¶ 41.

B. Ahmed's fraud was repetitive and occurred over at least a four year period.

35. Ahmed defrauded at least fifty-seven investors, using at least 152 separate note agreements, over the course of a four year period. *Id.* ¶¶ 1, 12, 41, Section V(C) and (D). Thus, the Commission found that Ahmed's violations involved repeated knowing misstatements and omissions to investors over this extended period. *Id.* ¶ 41.

36. Respondents offered and sold each STI Note pursuant to one of several PPMs dated, respectively, January 1, 2009, February 1, 2009, September 29, 2009, and November 30, 2009. *Id.* ¶ 13. Ahmed personally drafted the PPMs without consulting a securities lawyer – albeit with help from a consultant who had experience using PPMs to sell securities but whom Ahmed could not say had any experience drafting PPMs – used the PPMs to solicit investors, and provided the PPMs to STS registered representatives for their use in soliciting investors. *Id.*; Tr. at 34:19-37:3.

C. Ahmed acted with a high degree of scienter.

37. Ahmed used investor money to make nearly \$4 million of undisclosed payments to earlier STI investors, make undisclosed payments to or for himself in excess of \$800,000, and secretly gave his brother nearly \$100,000 of investor money. *Id.* ¶ 16(a). The Commission found that, in the process of defrauding investors, Ahmed *knew or was reckless in not knowing* that he was making material misrepresentations or omitting material information to investors, many of whom he *knew or was reckless in not knowing* were neither accredited nor sophisticated. *Id.* ¶¶ 22, 26, 32, 40. Moreover, Ahmed’s violations “involved repeated *knowing* misstatements and omissions” and that he “*acted intentionally* in performing his fraudulent acts.” *Id.* ¶¶ 41, 44.

D. Ahmed Does Not Appreciate The Wrongful Nature of His Misconduct and Continues to Deny Wrongdoing.

38. At the hearing, Ahmed consistently denied the findings in the OIP and, at the same time, claimed that he had agreed to those findings and “signed off on them,” pursuant to his settlement agreement with the Division. Div. Ex. 351 at 6 § VIII; Tr. at 39:13-40:10. Similarly, as reflected in certain documents he has submitted in related proceedings instituted after he settled this matter, including his appeal to the Commission of FINRA’s

NAC decision, Ahmed repeatedly denies responsibility or deflects blame for the same misconduct identified in the Commission's OIP.

39. Ahmed's testimony at the hearing, and the statements made in his appeal to the Commission of FINRA's NAC decision, demonstrates by a preponderance of the evidence that he does not recognize the wrongful nature of the egregious, harmful, and long-running fraud that he orchestrated and executed through his companies.
40. Such inconsistent positions and blatant denials demonstrate Ahmed's lack of candor with the Commission in negotiating his settlement position, his inability to act in accordance with the agreement that he made with the Commission, as well as his obvious inability to accept the wrongful nature of his conduct and take meaningful responsibility for the harm he caused to investors.
41. Emblematic of Ahmed's unwillingness to acknowledge his wrongdoing and take responsibility for his misconduct were his repeated claims that frauds committed by Goldman Sachs and others on Wall Street do not result in bars being imposed against the companies or any individuals: "I'm not Goldman Sachs where they commit fraud every week, they settle, they go on, they commit fraud. . . . I don't have unlimited resources to take you guys on. That's the problem. It's not a fair justice system, but I've got to deal with it." Tr. at 160:24-161:7; *see also, e.g.*, Tr.at 215:14-23 ("I'm not Goldman Sachs. I'm not, you know, Credit Suisse Bank of America, Merrill Lynch. They still commit fraud. Every month you hear a story about them. They just settled on CDOs and CMOs. Next month you find out about customers on market orders and limit orders and guess what happens? No action. What do they do? They just sell off those market making operations. They get away with crime. Just give them money to commit more fraud.");

Tr. at 217:6-10 (“You’re telling me Goldman Sachs and Credit Suisse and Bank of America and John Corzine, who commingled customers’ funds, the guy is running around free. Nothing happened to him.”); Tr. at 215:24-216:5 (“Here I’m being made an example of. Last week Goldman Sachs settled for \$5.1 billion and did anybody get barred? Did anybody go to jail? Did anybody get sanctioned? No. But I am being barred, my name is destroyed, I’m calling a Ponzi scheme. Come on, that’s fair? You call that American justice? What kind of justice is that?”); Tr. at 187:16-21 (“I don’t know about . . . how the SEC comes up with a \$12 million fine against me but you guys don’t come up with that kind of fine against Goldman Sachs.”).

42. Ahmed made clear that he will continue to breach his settlement agreement with the Commission and dispute the Commission’s facts and findings in the OIP when dealing with future business associates – “I will give [people] my side of the story just like what I am doing today. I have been singled out, I have been discriminated against.... [M]y case is about overzealousness. My case is about rushing to judgment. My case is about let’s go out and get this guy.” Tr. at 225:2-11.

E. Ahmed Offers No Credible Assurances Against Future Violations.

43. Ahmed seeks the right to be an officer or director of a public company again in the future to help increase his ability to repay investors. See Tr. at 14:9-14 (statement of Mr. Saacke); Tr. at 223:9-224:17. Ahmed’s desires notwithstanding, his violations unequivocally resulted from his abuse of his position as an officer and director of his companies. Div. Ex. 379 at ¶ 43; Tr. at 129:20-22 (“Q. Do you agree that you abused your position as an officer and director? A. Yes.”). Indeed, through his position as an officer and director of his companies, Ahmed directed their participation in his fraud, and misused his

authority to authorize his companies to make knowing misrepresentations and omissions.

Div. Ex. 379 at ¶ 43; Tr. at 129:23-130:17.

44. Ahmed's fraud was lucrative and allowed him to raise substantial sums of money, and these facts alone establish the opportunity for Ahmed to commit future violations. Ahmed gave no credible assurances in his testimony that he will not sell unregistered securities or defraud investors, and instead testified that he plans to mislead future business associates by disputing or contradicting the Commission's findings and telling them that this matter results from him being "singled out," "discriminated against," and from "overzealousness. . . [and a] rush[] to judgment." Tr. at 225:2-11.

F. Permanently Barring Ahmed Serves the Public Interest and is the Appropriate Remedy to Protect Investors.

45. Unless Ahmed is subject to a permanent associational bar, penny stock bar, and an officer and director bar, there is a strong likelihood that he will commit further violations of the antifraud provisions. Accordingly, permanent bars are the remedy best suited to serve the public interest and ensure that Ahmed cannot violate the federal securities laws again in the future.

EXHIBIT 1

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SUCCESS TRADE SECURITIES, INC.
(CRD No. 46027), and

FUAD AHMED
(CRD No. 2404244),

Respondents.

Disciplinary Proceeding
No. 2012034211301

Hearing Officer—LOM

HEARING PANEL DECISION

June 25, 2014

Respondents, Success Trade Securities, Inc., a broker-dealer, and Fuad Ahmed, its president, committed securities fraud in willful violation of Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5, and FINRA Rules 2020 and 2010. In offering and selling promissory notes of Success Trade's parent company, Respondents made affirmative false statements of material fact and omitted to disclose material facts such that what they did say was misleading. For this misconduct, Success Trade is expelled from FINRA membership and Ahmed is barred from association with any FINRA member firm in any capacity. They are further jointly and severally ordered to pay restitution to the defrauded investors in an amount totaling \$13,706,288.28 (to be distributed to each defrauded investor in accord with the evidence of each investor's loss), and they are ordered to pay costs.

Respondents sold unregistered securities that were not exempt from registration, in contravention of Section 5 of the Securities Act of 1933 and in violation of FINRA Rule 2010. This misconduct warrants a one-year suspension of Success Trade, a one-year suspension of Ahmed, and payment of restitution. However, those sanctions are not imposed in light of the sanctions ordered in connection with the fraud violation.

Appearances

Jennifer L. Crawford, Samuel L. Israel, and Jeffrey D. Pariser, Rockville, Maryland, and Michael A. Gross, of Boca Raton, Florida, for the Department of Enforcement.

William C. Saacke, of Los Alamitos, California, for Respondents.

HEARING PANEL DECISION

I. INTRODUCTION

This is a Hearing Panel decision in a disciplinary proceeding of the Financial Industry Regulatory Authority (“FINRA”).¹ FINRA’s Department of Enforcement (“Enforcement”) brought the proceeding against two Respondents, Fuad Ahmed (“Ahmed”) and FINRA member firm Success Trade Securities, Inc. (“Success Trade”). Ahmed founded and controls Success Trade. He is the only officer and the only director. He also founded, controls, and is the only officer and director of Success Trade’s parent company, Success Trade, Inc. (most often referred to here as the “Parent Company” or “Issuer,” but referred to in exhibits and testimony as “STP”). The Complaint alleges that Respondents willfully committed securities fraud and improperly sold unregistered securities that were not exempt from registration. The securities at issue are promissory notes issued by the Parent Company. As discussed more fully below, the Hearing Panel finds that the Respondents engaged in the misconduct charged in the Complaint and imposes sanctions.

A. Fraudulent Note Offering

Over the course of four years, from February 2009 through March 2013, Ahmed and Success Trade offered and sold Parent Company notes for \$19.4 million to 65 investors.² Most of the investors were financially unsophisticated. A large number of them were recent college graduates who had just begun playing professional sports or who were waiting to be drafted to play professional sports. They also lacked the assets and income history to qualify as accredited

¹ FINRA is a self-regulatory organization that is responsible for regulatory oversight of securities firms and associated persons who do business with the public. Members and their associated persons agree to comply with FINRA’s Rules, as well as the securities laws and other applicable regulations, and with FINRA’s rulings, orders, directions and decisions. By-Laws, Art. IV, Sec. 1(a)(1); Art. V, Sec. 2(a)(1); and FINRA Rule 140. FINRA’s Rules are available at www.finra.org/Rules.

² Six of the investors were fully repaid; 59 lost a total of approximately \$13.7 million.

investors permitted to buy such notes. Respondents nevertheless consistently – and falsely – represented in the offering documents throughout the four years of the offering that the notes were offered and sold to accredited investors only. Success Trade registered representatives who sold the notes created inaccurate documentation to support the investors' status as sophisticated and accredited investors.

Success Trade registered representatives sold the notes using offering documents that Ahmed authorized. The primary offering documents were private placement memoranda (“PPMs”).

The PPMs falsely told note purchasers that the proceeds of the note offering would be used for advertising, technology, and other expenditures to promote and build the Parent Company's businesses. Instead, Ahmed used the proceeds from later investors to pay interest to earlier investors, thereby creating a Ponzi scheme that enabled the fraud to continue.

The PPMs also falsely told note purchasers that the proceeds would not be used to compensate officers and directors of the Parent Company for their efforts in selling the notes. Ahmed, the only officer and director of the Parent Company, in fact took undisclosed, undocumented, no-interest, so-called “officer loans” from the proceeds to pay his personal expenses, including food, clothing, and monthly credit card bills. Ahmed made no payments on those so-called “officer loans” during the four years of the offering.

Ahmed also used the proceeds to pay the loan debt of one of the persons who offered and sold the notes to the investors, a Success Trade registered representative named Jinesh Brahmhatt, and to cover the payroll of Brahmhatt's own business enterprise, a registered investment adviser called Jade Private Wealth Management LLC (“Jade”). These payments were in exchange for the efforts of Brahmhatt and Jade employees who registered with Success

Trade to sell the notes to their clients. Ahmed made these payments contrary to disclosures in the PPMs, which told investors that the persons selling the notes were not compensated for their efforts.

In addition, Respondents omitted material facts from the offering documents. The omitted facts would have revealed that the Parent Company was in such dire financial condition that it was a virtual impossibility that it could ever repay the money it owed on the promissory notes. No reasonable investor would have purchased the notes if the investor had known the truth about the Parent Company's financial situation.

The PPMs used to sell most of the notes did not disclose that the Parent Company had had only one profitable year in its 14 years of existence, or that in the year just preceding the offering, Success Trade, upon which the Parent Company depended for its income, had suffered a major setback. Nor did the PPMs disclose that Success Trade had twice been sanctioned during the time of the offering for operating a securities business without having the required \$5,000 minimum net capital. Equally significant, the offering documents did not disclose that the Parent Company issuing the notes was already subject to a staggering debt load, having borrowed roughly \$800,000 at an interest rate of 50%-53% per annum. Respondents also misrepresented the size of the offering, making it appear that the Issuer was taking on a debt of only \$5 million, rather than a debt close to \$20 million. This misrepresentation contributed to the false impression of the Parent Company's financial condition and hid that the proceeds from new investors were being used to pay interest to old investors. It also contributed to the false appearance that the notes were exempt from registration with the Securities and Exchange Commission ("SEC"), as discussed below.

After selling notes to 40 to 50 investors pursuant to four false and misleading PPMs, Respondents created a Supplement to the PPMs designed to make it appear, in case the true facts were revealed, that investors had been fully informed. For example, the Supplement did not disclose that the proceeds of the offering had already been applied differently than specified in the PPMs, but it did suggest that the Parent Company might in the future use the proceeds for different purposes. Similarly, the Supplement was used even after the Parent Company exceeded the specified maximum for the offering, but it was not revised to disclose the actual size of the offering. Instead, the Supplement indicated that the Company had discretion in the future to exceed the maximum size of the offering and would not give notice if it did. In addition, instead of disclosing that Success Trade had already twice been sanctioned for net capital deficiencies, the Supplement disclosed that if the Parent Company's broker-dealer subsidiary were found in violation of its net capital requirement serious consequences could ensue, including the liquidation of the Parent Company. Most significantly, prior disclosure documents did not mention and did not provide Parent Company financial statements, but the Supplement created the false impression that Parent Company financial statements were provided as part of a business plan that had been mentioned by the earlier offering documents.

As notes issued in 2009 and 2010 began to mature three years later, Ahmed sought to persuade note investors to convert their notes to equity or to extend the term of the notes, because the Parent Company could not repay its obligations to those early investors. Ahmed made false and misleading statements in connection with these efforts. He falsely represented that the Parent Company was about to list its shares on a European exchange at a value more than three times that at which investors could convert their notes to equity. That misrepresentation created the false impression that note holders could make more money by

turning their right to repayment of their principal into an equity investment in the Parent Company. He also falsely represented that the Parent Company was about to purchase an Australian company. This misrepresentation contributed to the false impression that the Parent Company was thriving and worthy of further investment.

Accordingly, the Hearing Panel concludes that Respondents offered and sold the Issuer's promissory notes on the basis of affirmative false statements of material fact and omissions of material fact such that what Respondents said about the investments was misleading. The Hearing Panel further concludes that Respondents did so intentionally and willfully, in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and SEC Rule 10b-5, promulgated thereunder, along with FINRA Rules 2020 and 2010 (First Cause of Action).

B. Sale Of Unregistered Non-Exempt Securities

The Hearing Panel further finds that Respondents sold unregistered securities by falsely asserting that a "safe harbor" exemption from registration applied. In the early months of the offering, Respondents filed a notice with the SEC indicating that the offering was covered by SEC Rule 505, a "safe harbor" permitting the offer and sale of unregistered securities to both accredited investors and unsophisticated investors in offerings that do not exceed \$5 million over the course of twelve months. The exemption limits the absolute number of investors (both accredited and unsophisticated) to 35. It is apparent, and Respondents conceded in post-hearing briefing, that SEC Rule 505 does not apply. The offering size exceeded \$5 million; the offering continued longer than twelve months; and more than 35 investors purchased notes in the offering.

The PPMs, unlike the Rule 505 notice filed with the SEC, claimed that the notes were exempt from registration under a different "safe harbor," SEC Rule 506. Respondents also

claimed in their post-hearing briefing that SEC Rule 506 applied to the offering. That “safe harbor,” unlike the one claimed in the Rule 505 notice, does not limit the size or duration of the offering, or the absolute number of investors. However, SEC Rule 506 does impose stricter limits on the kind of investor permitted to invest in the exempt securities. SEC Rule 506 allows the sale of unregistered securities to an unlimited number of investors – if accredited – along with a limited number of investors (35) – if sophisticated. The evidence established that many of the 65 note purchasers in Respondents’ offering were neither accredited nor sophisticated investors. Accordingly, the “safe harbor” exemption under SEC Rule 506 was unavailable. In any event, the SEC Rule 506 “safe harbor” was unavailable for the additional reason that Respondents did not provide the non-accredited investors with the financial statements that the Rule requires.

The Hearing Panel concludes that Respondents violated FINRA Rule 2010, which requires compliance with high standards of commercial honor and just and equitable principles of trade, as alleged, by virtue of contravening Section 5 of the Securities Act of 1933 (“Securities Act”) (Second Cause of Action).

C. Sanctions

For the fraud violations (First Cause of Action), Success Trade is expelled from FINRA membership, and Ahmed is barred from associating with any FINRA member firm in any capacity. Respondents are further jointly and severally ordered to pay restitution in a total amount of \$13,706,288.28, (to be distributed to each defrauded investor in accord with the evidence of the investor’s loss).

For selling unregistered securities that were not exempt from registration (Second Cause of Action), it would be appropriate to suspend Ahmed from association with any FINRA

member firm in any capacity for one year and suspend Success Trade from FINRA membership for one year. It would also be appropriate to order Respondents jointly and severally to pay restitution. However, those sanctions are not imposed in light of the sanctions ordered in connection with the fraud violation.³

II. FINDINGS OF FACT

A. Jurisdiction

Success Trade was a FINRA member firm at the time of the alleged misconduct and continues to be a FINRA member firm. Ahmed has been registered with Success Trade from the time of the events in issue to the present. Both have agreed to comply with the federal securities laws and FINRA's rules, orders, and directions. They are subject to FINRA's jurisdiction.⁴

B. Procedural History

The investigation that led to this proceeding began with two tips. One tip was from an attorney who said that a registered representative named Jinesh Brahmhatt and Success Trade

³ This decision constitutes the findings and conclusions of the Hearing Panel after a five-day hearing held from August 26, 2013, through August 30, 2013, in Washington, DC. The scheduled post-hearing briefing was completed on October 5, 2013. Enforcement later filed a Notice To Clarify Requested Relief on November 5, 2013, and Respondents filed a Response on November 6, 2013.

The post-hearing briefs bear the following titles, which are abbreviated here as shown in parentheses: (i) Department of Enforcement's Post-Hearing Brief ("Enf. PH Br."); (ii) Respondent Success Trade Securities, Inc.'s and Fuad Ahmed's Post-Hearing Brief ("Resp. PH Br."); (iii) Department of Enforcement's Notice To Clarify Requested Relief ("Enf. Clarify Notice."); and (iv) Respondent Success Trade Securities, Inc.'s and Fuad Ahmed's Response To DOE's Notice To Clarify Requested Relief ("Resp. Opposition To Clarify Notice").

The following witnesses testified at the hearing: Robert Morris (FINRA lead investigator); Fuad Ahmed (Respondent); Amandeep Basi (a Jade employee who was also registered with Success Trade); Felix Danciu (a consultant hired by Ahmed); Riaz Khokhar (a lender to the Parent Company); Nainesh ("Nash") Brahmhatt (Jinesh Brahmhatt's cousin, and a Jade employee who was also associated with Success Trade); and Derrick Leak (a Jade employee for three months in 2013).

The Parties read excerpts of testimony given in on-the-record interviews ("OTRs") for two persons who were unavailable to appear at the hearing: Jinesh ("Haj" or "Hodge") Brahmhatt (founder and majority owner of Jade) and Ramnik ("Rams" or "Ramz") Aulakh (Jade's Chief Operating Officer and minority owner).

⁴ Hearing Tr. (Morris) 75; CX-24, CX-33. See FINRA By-Laws Art. IV, Sections 1, 6; By-Laws Art. V, Sections 2, 4.

were selling extremely speculative and high-yield promissory notes to professional athletes. The other tip was from a firm that had terminated a registered representative named MDR.⁵ The firm had reviewed MDR's computer and emails and learned that he was engaged in outside business activity with Success Trade and that the activity involved notes sold to professional athletes at high rates of interest.⁶

FINRA's staff was concerned about indicia of fraud.⁷ The staff also was concerned that there might be ongoing conduct that could cause investor harm in the future.⁸ For those reasons, the investigation proceeded on an expedited basis.⁹

The Complaint in the pending matter was filed on April 10, 2013, along with a request for a temporary cease and desist order ("TCDO"). Respondents consented to the request, and the TCDO was approved and issued on April 11, 2013, about two months after the investigation started.

The TCDO ordered Respondents to cease offering any more of the notes and to cease efforts to convert the notes to equity or to extend their terms.¹⁰ The TCDO has continued in place from the date of its issuance to the present. Enforcement has not alleged at any time since its issuance that Respondents have violated the TCDO.

⁵ MDR's identity is protected because he did not testify at the hearing and no previous testimony from him was received or read into the record.

⁶ Hearing Tr. (Morris) 63-64.

⁷ Hearing Tr. (Morris) 65.

⁸ Hearing Tr. (Morris) 66.

⁹ Hearing Tr. (Morris) 66, 70-71.

¹⁰ Hearing Tr. (Morris) 70; CX-313.

C. Respondents, Ahmed And Success Trade

After graduating from college with a degree in business and finance in 1992, Ahmed began his career in the securities industry.¹¹ Until he founded Success Trade, he was a registered representative at several firms, including, in 1994, Stratton Oakmont.¹² At Stratton Oakmont Ahmed met Jinesh Brahmhatt¹³ and MDR,¹⁴ two persons active in the events that are the subject of this proceeding.

After Stratton Oakmont, Ahmed worked at Smith Barney until August 1998. He left Smith Barney to open his own securities broker-dealer and founded Success Trade. His initial focus was on developing software applications to support online trading.¹⁵ Ahmed founded the Parent Company at roughly the same time, and Success Trade became its subsidiary.¹⁶ In 2000, Ahmed acquired BP Trade, Inc. ("BP"), a software company that became the Parent Company's second subsidiary.¹⁷

From the Parent Company's inception to the present, Ahmed has been its largest shareholder.¹⁸ Ahmed is the sole director, president, and CEO of both the Parent Company and

¹¹ Hearing Tr. (Ahmed) 1064; CX-24.

¹² Hearing Tr. (Ahmed) 501-02, 1064.

¹³ Hearing Tr. (Ahmed) 509-10; Hearing Tr. (Morris) 90, 115-16.

¹⁴ Hearing Tr. (Ahmed) 506.

¹⁵ Hearing Tr. (Ahmed) 501-02, 1064-65.

¹⁶ Hearing Tr. (Ahmed) 503. Ahmed testified that he started the parent company in 1997. *Id.* CX-33, at 6-7.

¹⁷ Hearing Tr. (Ahmed) 1066, 1080-81, Hearing Tr. (Morris) 83-84.

¹⁸ Hearing Tr. (Morris) 73, Hearing Tr. (Ahmed) 504.

Success Trade.¹⁹ As he admits, he has controlled the two entities from 2009 to the present.²⁰

Similarly, Ahmed is president and CEO of BP and controls that entity.²¹

Success Trade is a deep discount online securities broker-dealer.²² Its principal place of business is in Washington, DC, and it is a Washington, DC corporation subject to the authority of the District of Columbia Department of Insurance, Securities and Banking (“D.C. Securities Regulator”). From June 2009 to April 2013, it also had a registered branch office in Virginia and was subject to the authority of the Commonwealth of Virginia State Corporation Commission (“Virginia Securities Regulator”).²³ BP provides the software and trading platform for Success Trade, which is its only client.²⁴ BP is located in Canada.²⁵

D. Jinesh Brahmbhatt And Jade

After meeting Ahmed at Stratton Oakmont in 1994, Jinesh Brahmbhatt was a registered representative with Merrill Lynch for roughly fourteen years. Brahmbhatt left Merrill Lynch in 2007 to become a registered representative with LPL Financial. However, he left LPL in 2008,

¹⁹ Hearing Tr. (Morris) 71-74. Ahmed is also the sole signatory on the Parent Company’s bank accounts. Hearing Tr. (Ahmed) 507.

²⁰ Hearing Tr. (Morris) 72-73, Hearing Tr. (Ahmed) 504.

²¹ Hearing Tr. (Morris) 72, Hearing Tr. (Ahmed) 508. Ahmed testified that he is president and CEO of the Parent Company and both of its subsidiaries, Success Trade and BP. Hearing Tr. (Ahmed) 1063.

²² Hearing Tr. (Morris) 74, Hearing Tr. (Ahmed) 508, 518-22, 1415-16; CX-268, CX-334.

²³ Hearing Tr. (Ahmed) 508-09; CX-33.

Ahmed was the designated supervisor of Success Trade’s Virginia branch office. CX-333, at 3. Until April 2010, Ahmed was chief compliance officer, the AML compliance officer, and the FINOP of Success Trade. Hearing Tr. (Morris) 74. In April 2010, however, Ahmed hired another person to be responsible for both general compliance and AML at Success Trade. Hearing Tr. (Morris) 97-98.

²⁴ Hearing Tr. (Morris) 84, Hearing Tr. (Ahmed) 574-575. Ahmed testified at the hearing that he had licensed BP software until sometime in 2005-2007, when he had stopped licensing the software to others in order to focus on his own company. Hearing Tr. (Ahmed) 1336-38.

²⁵ Hearing Tr. (Ahmed) 508.

slightly less than one year after he started. He became a registered representative with Success Trade in spring of 2009.²⁶

After leaving Merrill Lynch, Jinesh Brahmhatt formed Jade. He is Jade's president and chief compliance officer ("CCO"). He owns 75% or more of the firm. Ramnik Aulakh is a minority owner and ran the day-to-day operations of the office.²⁷

Jade is a registered investment adviser. Its clients are primarily professional athletes. Jade provides them a host of concierge-type services, including buying and selling securities through Success Trade, travel arrangements, real estate relocation, car services, bill paying, and budgeting.²⁸ As of March 2013, Jade reported that it had 26-100 clients and slightly more than \$62 million in assets under management.²⁹

Jade also conducted a securities business on behalf of Success Trade. One witness who had worked at Jade, Derrick Leak, described Jade as a "hybrid" entity.³⁰ The brochure that Jade gave its clients contained a footer on each page that read, "Securities products offered through Success Trade Securities, Inc., member FINRA/SIPC."³¹ As of March 2013, Jade had

²⁶ CX-27.

²⁷ Hearing Tr. (Morris) 89, 91-92, Hearing Tr. (Jinesh Brahmhatt OTR) 950; CX-34.

²⁸ Hearing Tr. (Morris) 85, 137-38; CX-34, CX-207.

²⁹ Hearing Tr. (Morris) 88.

³⁰ Hearing Tr. (Leak) 996-97, 1043-44.

³¹ Hearing Tr. (Morris) 136-38; CX-207.

approximately five employees, four of whom were also registered representatives with Success Trade.³² In April 2009, about the time the note offering began and the first investor invested in the Parent Company's notes, Jinesh Brahmhatt and Ramnik Aulakh became registered representatives of Success Trade.³³ Jade operated a branch office for Success Trade out of its Virginia office.³⁴ Jade said in its investment advisor registration on Form ADV filed with the SEC that it kept its broker-dealer records for advisory client transactions at the Washington, DC, office of Success Trade, not in Jade's office in Virginia.³⁵ This is some of the evidence that Jade was not acting as a separate, third-party intermediary from Success Trade in offering and selling the Parent Company notes.

E. MDR

MDR was involved with Ahmed and his enterprises beginning in the early 2000s.³⁶ During 2009 and 2010, MDR was the second largest shareholder in the Parent Company.³⁷ His share (8.8%), however, was substantially less than Ahmed's (37.6%).³⁸

³² Hearing Tr. (Morris) 87-88, 90-94, Hearing Tr. (Ahmed) 509-10; CX-34. The following four Jade employees were registered representatives of Success Trade: Jinesh Brahmhatt, Rahmnik Aulakh, Nainesh ("Nash") Brahmhatt, Amandeep Basi. Hearing Tr. (Morris) 87-88, 90-95; CX-25 – CX-28.

Although Respondents argue that Jade was an independent intermediary between them and investors, and Jade alone was responsible for disclosures to investors, Ahmed testified that he does not dispute that Jade's employees were registered representatives of Success Trade. Hearing Tr. (Ahmed) 1155.

³³ Hearing Tr. (Morris) 90-92; CX-25, CX-27.

³⁴ Hearing Tr. (Morris) 84-86; CX-34.

³⁵ Hearing Tr. (Morris) 87; CX-34.

³⁶ Hearing Tr. (Ahmed) 506-07. MDR was a member of the Parent Company's board of directors in the early 2000s. *Id.*

³⁷ Hearing Tr. (Ahmed) 505-06. For some period prior to 2009, a venture capital company held stock in the Parent Company. Hearing Tr. (Ahmed) 506.

³⁸ CX-43, at 9, CX-46, at 12.

Prior to and during the period of the note offering, MDR was included on email correspondence with Ahmed and Jade personnel. Sometimes MDR sent and received emails in which he acted on behalf of Ahmed and his businesses in dealing with Aulakh and Jinesh Brahmhatt. Jade employees understood that MDR was acting in some kind of consulting capacity for Ahmed.³⁹ Prior to the investigation that led to the commencement of this proceeding, MDR was terminated from his broker-dealer firm because it suspected he was engaged in outside business activities involving Success Trade and the note offering at issue here.⁴⁰

F. Respondents' Financial Difficulties Prior To The Note Offering

Prior to the note offering, Ahmed's companies were experiencing severe financial difficulties. As Ahmed admitted, the Parent Company lost money in every one of its 14 years of existence except one – 2007.⁴¹ While it achieved a net positive income of just over \$200,000 in 2007, it slipped back into a net loss in 2008. That 2008 net loss was substantial, amounting to just over \$661,000. The 2008 net loss was largely attributable to an increase in expenses, which nearly tripled to over \$1.4 million, and which far outweighed the \$42,000 increase in revenues that year.⁴²

³⁹ Hearing Tr. (Morris) 421-27; CX-219, CX-221 – CX-223. The examiner admitted on cross-examination that he had seen no evidence that Jade personnel knew of any payment to MDR as a consultant. But that admission does not detract from the substance of the email correspondence, which shows that MDR sometimes spoke for Ahmed in the discussions between Ahmed and Jade personnel regarding the note offering and the flow of money from Ahmed to Jade and Jade personnel. Hearing Tr. (Morris) 160-61, 163-64, 212; CX-218, CX-221 – CX-229.

⁴⁰ Hearing Tr. (Morris) 64, 101-02.

⁴¹ Hearing Tr. (Ahmed) 534, Hearing Tr. (Morris) 104; CX-7.

⁴² Hearing Tr. (Morris) 104; CX-7, CX-114 – CX-115. The FINRA investigator created CX-7 from the Parent Company's unaudited profit and loss statements. The exhibit summarizes by year the assets, liabilities, revenues and expenses of the Company. It also summarizes the net income or loss for each year. Hearing Tr. (Morris) 102-03.

At the time the note offering began in spring of 2009, prospects for the Parent Company to stem its losses were dim. The Parent Company owed a large amount of money to Riaz Khokhar, a businessman located in New York. On behalf of the Parent Company, Ahmed had previously signed two ten-year promissory notes, one dated July 15, 2008, for \$550,000 plus 53% interest per annum⁴³ and the other dated October 1, 2008, for \$250,000 plus 50% interest per annum. Under these notes, the principal owed to Khokhar totaled \$800,000.⁴⁴ The principal owed to Khokhar exceeded the Parent Company's total revenue in any of the five years leading up to the note offering, from 2004 through 2008.⁴⁵ Furthermore, the interest rates on the Khokhar loans were, on their face, excessive and created a heavy debt burden.⁴⁶ Khokhar testified that he had demanded the high interest rates because he saw that Ahmed badly needed the money, saying, "I'm a businessman. I mean, I see that the guy needs money..."⁴⁷

The interest rate on the Khokhar loans exerted an immense pressure on Success Trade. To illustrate, Khokhar calculated that by the time of the hearing Ahmed's company owed him \$1.6 million – principal of \$800,000, plus an equal amount of accumulated interest.⁴⁸

⁴³ Hearing Tr. (Morris) 106-09; CX-199.

⁴⁴ Hearing Tr. (Morris) 106-11; CX-201. There is some confusion whether the loans documented by the July 15, 2008, and October 1, 2008, promissory notes were entirely new infusions of money or whether one of the loans might have been a consolidation of earlier loans from Khokhar. In his hearing testimony Khokhar testified that he and his wife had previously loaned the Parent Company around \$300,000 with an interest rate of 43.2% in 2007 and then made the \$550,000 loan. Hearing Tr. (Khokhar) 810-20; CX-16, CX-196 – CX-197.

⁴⁵ Hearing Tr. (Morris) 111-12. Indeed, the Parent Company owed Khokhar more money than it had ever netted, in total, in its entire existence. Under the two Khokhar notes, the Company owed Khokhar \$800,000, but in the only year it ever made a profit its net income was only one-quarter that amount, around \$200,000.

⁴⁶ The extraordinary nature of the 50%-53% interest rate is apparent from the much lower interest rates on concurrent loans. Jinesh Brahmhatt borrowed from the Parent Company at an interest rate of only 6%. The Parent Company borrowed from note investors at a rate of interest that was typically 12.5%.

⁴⁷ Hearing Tr. (Khokhar) 822.

⁴⁸ Hearing Tr. (Khokhar) 810-11.

The Khokhar notes also imposed a personal financial strain on Ahmed, because Ahmed signed a personal guarantee in connection with each of the loans.⁴⁹ That pressure never disappeared, even though a regulatory audit later led to a restructuring of the Khokhar loans.⁵⁰

From at least 2009 forward, the Parent Company depended on Success Trade for nearly all of its income. That income came in the form of management fees to the Parent Company.⁵¹

Success Trade was also struggling. It had a positive net income most years immediately prior to the note offering, but that positive net income each year was small (\$5,757 in 2004; \$114 in 2005; \$25,300 in 2006; and \$30,489 in 2007). In 2008, Success Trade actually experienced a net loss of \$20,724.⁵² That year its revenue decreased by approximately \$200,000.⁵³

There was another indication that Success Trade was suffering financial difficulties. The securities firm was twice sanctioned for conducting a business while failing to maintain its minimum net capital requirement of \$5,000. The first time Success Trade was sanctioned for failing to have enough net capital was in June 2009, in the early months of the note offering.

⁴⁹ Hearing Tr. (Morris) 108-11, Hearing Tr. (Khokhar) 814-15; CX-199, CX-201; Khokhar testified that he wanted to secure his money as much as possible because Success Trade was a start-up, so he demanded the personal guarantee. Hearing Tr. (Khokhar) 814.

⁵⁰ A regulatory audit uncovered the high interest rate on the Khokhar notes, and the SEC and FINRA took "exception" to the interest rate. Hearing Tr. (Ahmed) 1110-13. As a result, Ahmed and Khokhar discussed restructuring the two notes and agreed on a new interest rate of 15%. However, Khokhar continued to insist on an additional payment to make up for what he was losing in the reduction of the interest rate. He and Ahmed continued to negotiate on that additional payment. Hearing Tr. (Ahmed) 1110-13, Hearing Tr. (Khokhar) 824-31. They eventually agreed that the 15% interest rate would be paid until the debt matured on December 20, 2012. Then an additional balloon payment of \$1,520,000 was due. Hearing Tr. (Khokhar) 824-27. It later became apparent that Ahmed would be unable to meet his obligation in December 2012, and he and Khokhar began to discuss extending the debt another year. Hearing Tr. (Khokhar) 827-30.

⁵¹ Hearing Tr. (Ahmed) 534.

⁵² Hearing Tr. (Morris) 114-15; CX-6, CX-124. FINRA's investigator created the summary chart identified as CX-6 from Success Trade's balance sheets and profit and loss statements. Hearing Tr. (Morris) 113-14; CX-120 – CX-128. Ahmed agreed that the numbers in the summary exhibit accurately reflected Success Trade's balance sheets and profit and loss statements. Hearing Tr. (Ahmed) 1081.

⁵³ Hearing Tr. (Morris) 114.

The specified period of deficiency extended from July 16, 2007, through May 16, 2008, roughly ten months. The second time Success Trade was sanctioned for a net capital deficiency was at the end of January 2012, while the note offering was continuing. The second specified period of deficiency extended from March 31, 2009, through June 5, 2009, just when the note offering started.⁵⁴

Throughout the hearing, Ahmed maintained that his companies had great possibilities, and he spoke passionately about his vision for them. However, his description of Success Trade's situation in 2008, leading up to the note offering, only confirms that the Firm was in dire financial condition.

In 2007, Ahmed launched a very deep discount program that he believed would make Success Trade the lowest cost online broker in the United States. In 2008, the clearing firm he was using for that program was shut down by regulators, and customer assets were frozen. He lost his clearing deposit and approximately four months of commissions. His firm also lost

⁵⁴ Hearing Tr. (Morris) 77-81, Hearing Tr. (Ahmed) 1405; CX-37.

The net capital deficiency charges were settled by agreement, known as an Acceptance Waiver and Consent ("AWC"). Ahmed agreed to a relatively small fine of \$5,000 in connection with the first disciplinary matter. In connection with the second such matter, however, the sanctions were more substantial. Success Trade was censured and fined \$100,000; Ahmed was fined \$10,000, suspended as a principal for 60 days, and ordered to complete 16 hours of continuing education. Hearing Tr. (Morris) 77-82; CX-36 – CX-37.

While the charges in these matters were not proven at a hearing, it is significant that such charges were brought and that Respondents preferred to add to their debt burden rather than defend against the charges. Net capital charges are technical charges that turn on information that regulators find in a broker-dealer's books. Either a broker-dealer's books show that it had sufficient net capital or they show that it did not. That there was even a question whether Success Trade had the minimum \$5,000 net capital that it was required to have signifies that it was not in good financial shape.

customer accounts. Ahmed believed that this was a one-off event and that his business could thrive again⁵⁵ – but these events put Success Trade in a financial bind.

Ahmed testified that the second Khokhar loan in October 2008 was critical to support Success Trade after the clearing firm shut down.⁵⁶ He described the situation in stark terms, saying, “I mean, the fact that your operating capital just disappears overnight is a shock for any business.... You have to make sure that you have capital available ... so we had to make sure that we come up with capital.”⁵⁷ At another point in the hearing, Ahmed referred to what happened as “where your capital just evaporates overnight within a situation like [that with the clearing firm].”⁵⁸ It is plain from this description of the situation that Ahmed desperately needed money to keep himself and his enterprises afloat.⁵⁹

As discussed below, Ahmed and his companies resolved their financial difficulties by working with Jade to offer and sell the Parent Company’s promissory notes to investors. Ahmed used the proceeds to present the false appearance of success and fuel further interest in investment in his companies, as well as for his own personal expenses and other items.

⁵⁵ Hearing Tr. (Ahmed) 1083-95. Ahmed attributed the 2007 profitable year for the Parent Company to Success Trade’s launch of the low-cost trading program, which he called “Just2Trade.” He said that the program attracted new accounts, and he was proud of what he had built and enthusiastic about its future. *Id.* Ahmed testified that the first loan from Khokhar in 2007 had been used to assist in launching the deep discount program. Hearing Tr. (Ahmed) 1103-06.

⁵⁶ Hearing Tr. (Ahmed) 1103-06.

⁵⁷ *Id.* at 1106.

⁵⁸ Hearing Tr. (Ahmed) 1120.

⁵⁹ Ahmed introduced evidence for the purpose of showing that a venture capital firm had paid him roughly \$900,000 for a 2% interest when he acquired BP in 2000, which would equate to a \$50 million value for Ahmed’s combined enterprises. Hearing Tr. (Ahmed) 1066-1081. The Hearing Panel finds that this information regarding the possible value of Ahmed’s enterprises nearly a decade before the events in issue is irrelevant, and so does not address whether the evidence is reliable and sufficient to prove the value of Ahmed’s companies in 2000.

G. Financial Difficulties Of Brahmhatt And Jade Prior To The Note Offering

Prior to the note offering, Jinesh Brahmhatt and his firm, Jade, also were in financial distress. Brahmhatt had developed the idea of soliciting professional athletes after realizing that they had no concept of budgeting and needed help even to understand how much they were spending. After leaving LPL, he spent time talking with professional athletes, but he did not “land” the first client until spring of 2009, about a year after he started Jade.⁶⁰ His cousin, Nainesh Brahmhatt, who joined him in the business in April 2009, testified, “When we first started, it was pretty much – I guess when we first started we didn’t have any clients....”⁶¹ In spring of 2009, Jade could not cover its payroll without outside help, which it sought from Ahmed.⁶² As discussed more fully below, Ahmed, through the Parent Company, regularly provided money to cover Jade’s payroll from the proceeds of the note offering.⁶³

Jinesh Brahmhatt personally had a need for money, too. He had received a \$275,000 loan when he began at LPL, which he failed to repay when he left that firm. LPL brought a claim against him in arbitration that was ultimately resolved by settlement in the fall of 2009. In the October 22, 2009 settlement agreement, Brahmhatt agreed to pay \$180,000.⁶⁴ According to Ahmed, Brahmhatt did not have the money to pay LPL and looked to Ahmed to assist him.⁶⁵

⁶⁰ Hearing Tr. (Jinesh Brahmhatt OTR) 951-56.

⁶¹ Hearing Tr. (Nainesh Brahmhatt) 874.

⁶² CX-218 – CX-219, CX-221.

⁶³ Hearing Tr. (Morris) 117-36. Jade also depended on funding from Ahmed to pay for services critical to its business. CX-220.

⁶⁴ Hearing Tr. (Morris) 116-20; CX-208.

⁶⁵ Hearing Tr. (Ahmed) 547-48.

Ahmed, through the Parent Company, provided the funds for Brahmbhatt to pay LPL from the proceeds of the note offering.⁶⁶

H. Arrangement Between Ahmed And Jade To Resolve Their Difficulties By Sharing Proceeds Of Note Sales

Respondents assert that there is no proof of a *quid pro quo* between Ahmed and Jinesh Brahmbhatt and their respective enterprises, Success Trade and Jade. While there is no contract expressly setting out the arrangement between Ahmed and Success Trade, on the one hand, and Brahmbhatt and Jade, on the other, there is an overwhelming amount of evidence in the form of email correspondence that establishes their expectations of each other and how they in fact operated. That evidence establishes that Ahmed supported Brahmbhatt and Jade in return for their efforts to raise money from their clients for Ahmed and his businesses.⁶⁷

Jinesh Brahmbhatt began recommending Parent Company notes to potential investors in February 2009.⁶⁸ The first investor purchased on March 2, 2009,⁶⁹ and the second investor purchased on March 16, 2009.⁷⁰ Aulakh became a registered representative of Success Trade on March 30, 2009.⁷¹ Jinesh Brahmbhatt became a registered representative of Success Trade on

⁶⁶ Hearing Tr. (Morris) 120-21, Hearing Tr. (Ahmed) 547-48. Jinesh Brahmbhatt needed money both to pay back LPL and to start and grow his business with Jade. Hearing Tr. (Morris) 136. Ahmed testified that he made an arrangement with Jinesh Brahmbhatt around January 2010 and started making payments on Brahmbhatt's LPL loan. Hearing Tr. (Ahmed) 1130-31.

⁶⁷ Hearing Tr. (Ahmed) 1131-33. Ahmed admitted that the email correspondence would suggest a *quid pro quo*, but he asserted that he told Brahmbhatt and Aulakh "I just can't do that." *Id.* at 1133. There is no evidence corroborating Ahmed's testimony that he refused to participate in the scheme reflected in the email correspondence. Instead, as detailed below, the email records demonstrate that Ahmed funded Brahmbhatt and Jade based on their efforts to sell Parent Company notes.

⁶⁸ RX-5011 – RX-5012.

⁶⁹ CX-1.

⁷⁰ *Id.*

⁷¹ CX-25.

April 4, 2009.⁷² Ahmed began funding Brahmbhatt and Jade in April 2009, about the time that Brahmbhatt became registered with Success Trade.⁷³

Brahmbhatt and Jade promised to raise the money that Ahmed needed from their athlete clients in return for Ahmed funding Brahmbhatt and Jade. One item evidencing this arrangement was an email that Jinesh Brahmbhatt wrote to Ahmed with a copy to MDR on April 9, 2009. In that email, Brahmbhatt said, "I appreciate the help you are giving me and my team, I might not say it but I'm very thankful. First let me say I can raise you \$7M." Further along in that email, Brahmbhatt made plain the financial difficulty his business was in and how he hoped, eventually, to repay Ahmed for his help by raising money for him from Jade's athlete clients. Brahmbhatt said,

[W]hat that means for you is that for every client I bring I want them to invest in Success. But non[e] of these new clients will have assets till Sept. So till then to weather the storm I have been trying to piece meal clients for you. Fuad I need time to raise u all your capital....But if you give me time. Every client I have will be an investor. I will have net new assets of 20 million by End of Sept. Also, from now till the draft, June 26th I need a little help here and there....I have to find someone that can help me. I'm at a point now of no return. But all my resources...are spent. I need you and MDR to consider a short term budget. And as for a raise I will make sure to raise u 500k within the next month.⁷⁴

Jade personnel registered with Success Trade continued to sell the notes for approximately four years, generating funds for Ahmed and his businesses. In return, Ahmed (through the Parent Company) made payments to Jinesh Brahmbhatt and Jade.⁷⁵

⁷² CX-27.

⁷³ Hearing Tr. (Morris) 142-43, Hearing Tr. (Ahmed) 545-46; CX-218.

⁷⁴ CX-218.

⁷⁵ Hearing Tr. (Morris) 138-62; CX-246, CX-250, CX-252 – CX-254, CX-256 – CX-258, CX-262 – CX-265, CX-267, CX-273 – CX-275, CX-278 – CX-279, CX-281.

That Jade expected Ahmed to cover Jade's vendor costs and payroll is clear, but the precise amount to be paid was subject to negotiation.⁷⁶ In one email communication, for example, Aulakh wrote,

Going forward, we need to come up with an agreement for every \$ amount that we raise there should be a set# of payrolls that will be covered and committed by Success Trade, every \$50-\$100K covers two payroll periods, I'm throwing a figure out there as an example but I will be glad to discuss in more detail.⁷⁷

Other emails clearly link payments to Jade to the amount of money raised from the sale of the notes. In an email dated May 2010, Aulakh calculated what Ahmed owed Jade as a result of Jade's sales efforts over the last three months. Aulakh wrote to Jinesh and Nash Brahmhatt that from February 15 to May 15, 2010, "[W]e have raised a total of \$492,500 for Success Trade, so that equates to \$164,166.67 per month. So technically, that meets the 150 to 200K per month range they want." The email continued, "So to answer your question, the last three months we have lived up to our part of the bargain." Then the email listed the clients who had invested in the offering in the last three months.⁷⁸ Aulakh wrote to Ahmed and MDR that Jinesh Brahmhatt was focused on selling the notes at the same time that he discussed anticipated Jade

⁷⁶ CX-219 – CX-234, CX-237 – CX-241.

⁷⁷ Hearing Tr. (Morris) 148; CX-221.

Jade personnel knew that both they and Ahmed desperately needed to sell notes to generate the funds they needed. Aulakh sent an email to Jinesh Brahmhatt on June 3, 2009, expressing concern whether Ahmed, through Success Trade, was going to be able to make the monthly interest payments to the early investors and any future investors. He noted, "Our payroll is no longer being covered for the time being, besides not having payroll covered, my other concern is Success going to be able to make the monthly interest payments to [the first two investors] and any future investors?" Hearing Tr. (Morris) 144-46; CX-219.

Aulakh sent another email to Jinesh Brahmhatt and Ahmed on June 16, 2009, seeking payment on a vendor account that he considered urgent to pay. He said that the vendor would "cancel completely if it is not paid." He noted that the vendor's program was heavily relied upon by their clients "and cancellation would be detrimental to our business." Hearing Tr. (Morris) 146-47; CX-220.

⁷⁸ Hearing Tr. (Morris) 156-57; CX-226.

expenses.⁷⁹ MDR corresponded with Jinesh Brahmbhatt, saying, “We need to keep funding at 250 to 300K per month to keep you at 20K per month.”⁸⁰ Ahmed admitted that the Parent Company covered Jade’s payroll in 2009 and at least some of 2010.⁸¹

I. Note Purchasers Were Not Sophisticated And Did Not Have A Substantial Income History

Jade’s clients were unsophisticated. Indeed, Jinesh Brahmbhatt’s business plan and marketing focused on that fact. He explained in his OTR that other firms working with professional athletes did not keep in touch during the athletes’ busy season. In contrast, Jinesh Brahmbhatt “came up with the idea that we’ll give them their budgets every Friday. So every Friday we send – we have the accounting firm that they deal with send them an e-mail of what they are spending on their cash and their credit cards, their debit cards, and then they would see.” Brahmbhatt would show each athlete his set budget and how much he was spending on what was covered by the budget (“mom and dad support, grandma support, whatever it might be child support, their rent, their car payments”).⁸² Brahmbhatt would also show them what they were spending on things outside the budget (“you know, guys would spend a hundred thousand a month on their American Express cards going out, taking friends....they’re eventually going to see man, I really am spending a lot of money, because every single month we show them a slide and it ... says your set budget was \$10,000 a month and then the red underneath is what you went over; so this is the disparity.”).⁸³

⁷⁹ Hearing Tr. (Morris) 154-55; CX-225.

⁸⁰ Hearing Tr. (Morris) 151-52; CX-223.

⁸¹ Hearing Tr. (Ahmed) 547.

⁸² Hearing Tr. (Jinesh Brahmbhatt OTR) 954-55.

⁸³ Hearing Tr. (Jinesh Brahmbhatt OTR) 955-56.

When asked if his clients were sophisticated, Brahmbhatt said they were. However, his description of the type of “education” that he was giving them belies the word. He described “teaching” them first to fill up a bucket with their savings and then let the savings create the funds for spending each month. He said “[O]ne of the biggest things that happens with them is that they don’t realize that the more they save, the more cash flow they will have; and that is what I was saying with the bucket.”⁸⁴ He noted, “[T]he kids are going to make mistakes in their rookie seasons because they just do it. You can’t stop them from buying \$200,000 worth of jewelry, even though you say, hey, can we negotiate and just buy 40,000 worth of jewelry.... [T]hat’s the type of conversation we are having with them.”⁸⁵

Jinesh Brahmbhatt interpreted what he meant by sophistication in referring to his clients – he meant that they had a basic understanding of what a budget is. He testified at his OTR, “I say that they had sophistication, that they understood okay, this is how much money I have and this is what I should be putting money towards, this much towards savings, this much towards my lifestyle and expenditures.”⁸⁶

Many of Jade’s clients were just starting their careers. They had potential to make a high income, but little income history. Nainesh Brahmbhatt testified that Jade recruited most of its clients as they came out of college and were entering the draft to join a professional sports team. He said, “[M]ost of the clients that we recruited were coming in from college to the draft.”⁸⁷ He described the initial pitch as focusing on how Jade would “go above and beyond as far as helping

⁸⁴ Hearing Tr. (Jinesh Brahmbhatt OTR) 959-60.

⁸⁵ Hearing Tr. (Jinesh Brahmbhatt OTR) 957.

⁸⁶ Hearing Tr. (Jinesh Brahmbhatt OTR) 962.

⁸⁷ Hearing Tr. (Ninesh Brahmbhatt) 878.

them with all the day-to-day things.”⁸⁸ He noted that insurance was important because “right now they’re not making any money, but they have a potential to make a lot of money....”⁸⁹

As further discussed below, a person must have at least two years of income history at \$200,000 or above to qualify as an accredited investor. Many of Jade’s clients did not have that income history. A Jade employee, Amandeep Basi, who also was a registered representative through Success Trade, filled out most of the accredited investor questionnaires for Jade clients who purchased Parent Company notes. This amounted to between 20 and 50 of the note purchasers.⁹⁰ He testified that typically the client would sign the paperwork in the office but the paperwork would not be filled out. He would fill in demographic information to the extent he could from the account application. As for the accredited investor information, he would refer to the athlete’s contract for information on income, and he would ask Aulakh or Jinesh Brahmhatt for instructions. Aulakh told him to check the box indicating that the accredited investor had income over \$200,000. Aulakh and Jinesh Brahmhatt might check the completed paperwork before it was forwarded to Success Trade’s office in Washington, DC.⁹¹ Basi explained that Aulakh and Brahmhatt had a theory that the box specifying the client’s income for the past two years could be filled out based on the contract guarantee the athlete had for future income.⁹² Jinesh Brahmhatt’s testimony at his OTR confirmed that he operated on that theory. At his OTR, he maintained that all the clients who invested in Parent Company notes were accredited

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Hearing Tr. (Basi) 653-54, 686.

⁹¹ Hearing Tr. (Basi) 659-62. Basi reviewed examples where he admitted that he had filled in information. Hearing Tr. (Basi) 663-64.

⁹² Hearing Tr. (Basi) 684-89. Basi detailed the process by which forms like the accredited investor form were completed. Hearing Tr. (Basi) 659-64, 677-81; CX-46, CX-65, CX-70.

investors.⁹³ However, he based that contention on the future salary guarantees in their contracts and no other factor.⁹⁴

J. Overview Of Note Offering

The Parent Company issued a total of \$19.4 million worth of promissory notes from March 2009 through February 2013.⁹⁵ In June 2009, the Parent Company filed a notice with the SEC claiming that the notes were exempt from registration under SEC Rule 505.⁹⁶

Ahmed admitted that it was his decision to issue all of the promissory notes.⁹⁷ He signed all but eight of the promissory notes issued to investors,⁹⁸ and he approved the terms of each and every note, including the interest rates.⁹⁹ Ahmed personally guaranteed at least one of the notes,¹⁰⁰ but most notes were unsecured.¹⁰¹

Sixty-five investors bought 152 notes. Many investors were professional athletes, current and former NFL and NBA players. They invested in varying amounts, ranging from as little as

⁹³ Hearing Tr. (Jinesh Brahmhatt OTR) 970-72.

⁹⁴ Hearing Tr. (Jinesh Brahmhatt OTR) 958-59. Brahmhatt testified that the determination whether a client was accredited was made on the basis of "the amount of money they're scheduled to make." *Id.* at 972. He said, "So like if year one they have a million dollar signing bonus, and year two, three and four, they've got another two million and there's like escalators in there, but those are all guaranteed numbers, comes out to five and a half, six or seven million dollars more than – more that they will make. We manage the portfolio based on that number. We don't manage it based on what they have today." *Id.* at 958-59.

⁹⁵ Hearing Tr. (Ahmed) 514; CX-1.

⁹⁶ RX-5087.

⁹⁷ Hearing Tr. (Ahmed) 514.

⁹⁸ Hearing Tr. (Ahmed) 514-15.

⁹⁹ Hearing Tr. (Ahmed) 515-16.

¹⁰⁰ An example of a note personally guaranteed by Ahmed is contained in CX-47.

¹⁰¹ See the investor files containing the notes. Examples are contained in CX-56, CX-60, CX-66, CX-69.

\$6,500 to as much as \$1 million.¹⁰² Investors bought from persons registered with Success Trade, although they were paid as Jade employees.¹⁰³

Typically, the annualized interest rate for investor notes was 12.5% and the term was 36 months. The notes usually had a right to convert to stock equity in the Parent Company. In 2012 and 2013, as notes issued in 2009 and 2010 came due, Respondents sought to have investors convert to stock ownership or to extend the term of their loans. As time went by, some existing investors extended their notes, and then, in at least some instances, the interest rate was reset to a higher figure. Some investors also agreed to invest in the notes for a short term at a much higher interest rate.¹⁰⁴

¹⁰² Hearing Tr. (Morris) 63-69, 189-92, 346-49, 383-86, 403, 478-80, Hearing Tr. (Jinesh Brahmhatt OTR) 951-52; CX-1, CX-17. Enforcement identified 18 investors who had an annual income of less than \$200,000. Many of them were in their early 20s. Most of the 18 investors had a net worth between \$300,000 and \$1 million. Some had a net worth of less than \$300,000. CX-1, CX-17.

¹⁰³ Ahmed admitted that Jade's employees were registered representatives of Success Trade. Hearing Tr. (Ahmed) 1155.

¹⁰⁴ Hearing Tr. (Morris) 80, 186-87; CX-1. The first investor in the Parent Company notes set the general pattern. CJ, a former professional football player, invested \$100,000 on March 2, 2009, at an annualized interest rate of 12.5% for a period of 36 months. He received a PPM dated January 1, 2009. Hearing Tr. (Morris) 189-90; CX-1. Another former football player, DM, invested \$50,000 on July 1, 2009, at an annualized interest rate of 12.5% for a period of 36 months. Hearing Tr. (Morris) 190; CX-1.

Later investors began receiving a higher interest rate. CP, a former professional football player, invested \$1 million on November 3, 2010, for a six-month term. The annualized interest rate was 20.4%. TJ, another professional football player, invested \$200,000 on April 5, 2012, for six months at an annualized interest rate of 200%. Hearing Tr. (Morris) 190-01; CX-1.

FE, a professional football player, invested \$50,000 on August 31, 2012, for a term of only two weeks. The interest he was promised, \$5,000, equated to an annualized interest rate of 240%. Hearing Tr. (Morris) 191-92; CX-1. After the term of two weeks, FE received \$5,000, which was denominated as interest, and the \$50,000 principal was rolled over into a new investment. Hearing Tr. (Morris) 192; CX-1.

Nearly all the notes were convertible into common stock of the Parent Company. Hearing Tr. (Ahmed) 516. As further discussed below, as the notes sold in 2009 and 2010 came due, Ahmed and his businesses did not have the money to pay what they owed to the investors. So Ahmed tried to persuade investors to convert to common stock by telling them, falsely, that the company was about to go public and that would make the equity more valuable than the notes. A number of the investors agreed to extend their notes, which are now in default. CX-10.

Informal email communications describing Ahmed's businesses in glowing terms were used to sell some of the Parent Company promissory notes,¹⁰⁵ but a majority of the notes (approximately 70%) were issued on the basis of a PPM. There were six PPMs bearing four dates, with the earliest dated January 1, 2009, and the latest dated November 30, 2009.¹⁰⁶

There were three different versions of the November 30, 2009, PPM. The three versions of the November 30, 2009 PPM did not vary in any significant way except for the specified expiration date for the offering. The original expiration date in the November 30, 2009 PPM was February 19, 2010. The second version changed the expiration date to December 31, 2010, and a third version changed the expiration date to June 30, 2011. A version of the November 30, 2009 PPM was provided to investors through spring of 2013. Most of the investors who received a PPM received a version of the November 30, 2009 PPM.¹⁰⁷

In addition, the Parent Company issued a Supplement dated June 30, 2010, that Success Trade also used in soliciting investors. The Supplement stated that it was intended to accompany, and be read in the context of, the PPM dated November 30, 2009. The Supplement did not distinguish between the three different versions of that PPM.¹⁰⁸

¹⁰⁵ In February 2009, Ahmed and MDR sent an email touting the bright prospects for Success Trade as an online broker. That email was circulated to Jinesh Brahmhatt and Aulakh. Among other things, it said that Ahmed's and MDR's company was doing an offering of notes paying 12.5% which could be converted into stock after one or two years. Ahmed and MDR said that they would use the money for advertising and expected that they could increase their business by more than 500% in the next eighteen months. They represented that the company had been making money and had reinvested it. They identified as competitors Etrade, Ameritrade, Fidelity, and Schwab. They noted that another competitor, Think or Swim, had been bought out for \$606 million only three weeks before. RX-5008.

In subsequent emails, Ahmed expanded on the theme that his firm already had infrastructure that others were interested in buying. RX-5010. Brahmhatt and some of his associates began forwarding the email from Ahmed and MDR along with a recommendation that clients consider making an investment. RX-5011 – RX-5012.

¹⁰⁶ Hearing Tr. (Morris) 188-89, Hearing Tr. (Ahmed) 516, 522-26; CX-1. Enforcement prepared a chart listing the various PPMs and Supplement. See CX-3.

¹⁰⁷ Hearing Tr. (Morris) 188-89, Hearing Tr. (Ahmed) 522-26; CX-1, CX-3.

¹⁰⁸ CX-44, CX-46.

Notes issued with a PPM were accompanied by a subscription agreement, and Ahmed signed each subscription agreement.¹⁰⁹ Ahmed understood that by signing a subscription agreement he was accepting and agreeing to the sale of the notes.¹¹⁰

Success Trade kept a separate investor file for each purchaser of Parent Company notes. Typically an investor file contained a copy of the executed note (or notes) signed by the investor and Ahmed, on behalf of the Parent Company. If the note was offered and sold on the basis of a PPM, then the file would also contain the PPM and a subscription agreement. Some files also contained a copy of the Supplement and other documents such as emails.¹¹¹

In addition, the investor file would contain a form to support the accredited investor status of the investor. That form was entitled "Success Trade, Inc. Acc[r]edited Investor Questionnaire." Typically, the investor would sign the Accredited Investor Questionnaire but leave questions unanswered. As discussed above, an employee of Jade who was also registered with Success Trade, Basi, would often fill in the missing information.¹¹²

K. Material False Statements And Misleading Omissions In PPMs And Supplement

The PPMs and Supplement used to offer and sell the notes made many affirmatively false statements of material fact and omitted other material facts so as to make what was said misleading. While later PPMs and the Supplement appeared to make more disclosures, they did

¹⁰⁹ Hearing Tr. (Ahmed) 516-17.

¹¹⁰ Hearing Tr. (Ahmed) 517.

¹¹¹ CX-45 – CX-108.

¹¹² Hearing Tr. (Basi) 660-62.

not correct numerous false and misleading statements. Rather, they added to the misleading nature of the documents used to solicit investors.¹¹³

(1) All PPMs

Some (but not all) of the materially false and misleading statements in the PPMs are briefly identified here:

First, the PPMs misrepresented that the bulk of the proceeds of the offering would be used to support and build the Issuer's businesses. Each PPM included the same chart showing the expected use of the proceeds. The chart purported to show how 100% of the offering would be applied. The types of expenses included the following: offering expenses, commissions, advertising, website development, data center infrastructure, software programming, equipment, share buyback and debt retirement, legal and accounting expenses, and working capital. Advertising was the largest listed expense, at 40%. Share buyback and debt retirement was the next largest expense, at 33.3%. The other items were 10% or less.¹¹⁴

The chart misrepresented the actual use of the proceeds. As summarized below, Ahmed admitted that the proceeds from later investors were used to pay interest to early investors, to pay Ahmed so-called "officer loans" to cover his personal expenses and credit card bills, to trade

¹¹³ The September 2009 PPM was longer than the first two PPMs and purported to contain additional disclosures. The three versions of the November 30, 2009 PPM were similar to the September 2009 PPM. However, all six PPMs contained a number of common false and misleading statements.

¹¹⁴ CX-38, at 6, CX-39, at 6, CX-40, at 17, CX-41, at 17, CX-42, at 17, CX-43, at 17.

securities, and to pay Jade's payroll and assist Jinesh Brahbhatt to pay his loan debt to his prior employer. Ahmed also admitted that the chart used in the PPMs did not disclose these uses.¹¹⁵

Second, the way the proceeds were used also directly contradicted other representations in the PPMs. The PPMs all represented that that no officer or director of the Parent Company would receive compensation for his efforts selling the notes.¹¹⁶ This provision could only refer to Ahmed, as the sole officer and director of the Parent Company. The undocumented "officer loans" to Ahmed, however, were such compensation. He took money from the proceeds as needed to pay his monthly expenses and made no payments on the "officer loans" during the four years of the note offering. He entered no agreement to repay until the hearing.¹¹⁷

The PPMs also represented that neither Success Trade nor anyone associated with it would receive any compensation in connection with the sale of the notes.¹¹⁸ The so-called "loans" to Jade and Jinesh Brahbhatt, who were the registered representatives of Success Trade who solicited investors, constituted such compensation. The payments to Jade and Brahbhatt were tied to the amount of notes they were able to sell, and Ahmed did not demand payment on the "loans."¹¹⁹

¹¹⁵ CX-38. The chart was also used in the Supplement but it was expanded. The original disclosure in the PPMs regarding the use of proceeds appeared under the heading "Planned Use of Proceeds." Other figures purported to show the actual use of proceeds to date, under the heading "Use of Proceeds to Date." Ahmed admitted, however, that the expanded chart disclosed nothing about using new investors' money to pay interest to existing investors or that he and Brahbhatt were using the proceeds in other ways not disclosed to investors. Hearing Tr. (Ahmed) 540-54.

¹¹⁶ CX-38, at 6 n.2, CX-39, at 6 n.2, CX-40, at 17-18, CX-41, at 17 n.2, CX-42, at 17 n.2, CX-43, at 17 n.2.

¹¹⁷ CX-38; Hearing Tr. (Morris) 254-62, Hearing Tr. (Ahmed) 542-45, 1225-32. FINRA staff found a small amount of credits to Ahmed totaling less than \$14,000. Hearing Tr. (Morris) 258.

¹¹⁸ Hearing Tr. (Morris) 215-16; CX-38, at 6 n.2, CX-39, at 6 n.2, CX-40, at 17 n.2, 18, CX-41, at 17 n.2, CX-42, at 17 n.2, CX-43, at 17 n.2, CX-43.

¹¹⁹ Hearing Tr. (Morris) 119-36, Hearing Tr. (Ahmed) 545-48, 1129-31, 1134-42; CX-38.

Third, the PPMs failed to disclose the true financial condition of the Parent Company issuing the notes. No PPM contained or discussed the Parent Company's financial statements. The PPMs failed to disclose that the Parent Company was in financial distress and had a large and increasing debt load. The PPMs also failed to disclose that Success Trade, the broker-dealer subsidiary on which the Parent Company depended, had been sanctioned for net capital deficiencies and was struggling financially, contributing to the Parent Company's financial difficulty.¹²⁰

Fourth, all the PPMs falsely represented that the offering was exempt from registration and that the notes would be sold only to persons who qualified as accredited investors. The PPMs cited SEC Rule 506 as the "safe harbor" exemption from registration.¹²¹ As discussed above, the investors were neither sophisticated nor accredited, and the note offering was not exempt from registration under SEC Rule 506.

Fifth, the PPMs falsely represented that the minimum sales unit was \$100,000.¹²² In fact, Respondents sold smaller amounts of the notes, including a sale of only \$6,500.¹²³ The false representation regarding the size of sales units facilitated the impression that the offering was being made only to accredited investors who had the resources to make investments in \$100,000 units.

¹²⁰ As further discussed below, the business plans that accompanied the PPMs did not disclose the true financial condition of the Parent Company. In fact, the business plans themselves were misleading. They primarily contained projections, and to the extent they might have contained some historical financial information it was far too vague and undetailed to fully and accurately inform an investor of the financial condition of the Issuer.

¹²¹ CX-38, at 3, 10-11, CX-39, at 3, 10-11, CX-40, at 2, 18-20, CX-41, at 1-2, 18-20, CX-42, at 1-2, 18-20, CX-43, at 1-2, 18-20.

¹²² CX-38, at 1, 5, CX-39, at 1, 5, CX-40, at 1, 16, CX-41, at 1, 16, CX-42, at 1, 16, CX-43, at 1, 16.

¹²³ CX-1.

Sixth, the PPMs falsely represented the size of the note offering, concealing how much the Parent Company was borrowing and the increasing size of its debt load. The first PPM represented that the offering would be for a minimum of \$5 million and a maximum of \$7.5 million. The rest of the PPMs described the offering as a \$5 million offering. The disclosure did not change even as the note offering approached \$20 million in size.¹²⁴

(2) Later PPMs

The September 2009 PPM and the three November 2009 PPMs disclosed some – but not all – of the terms of the Khokhar financing after he and Ahmed restructured the two earlier notes due to the concern of the regulators. These later PPMs described the financing from Khokhar as a note dated September 15, 2009, for \$800,000 in principal at an annual interest rate of 15% for a term of five years. The PPMs stated that interest on the note was payable monthly. The PPMs said nothing about the \$1.5 million balloon payment that Ahmed and Khokhar had negotiated to make up for the drop in the interest rate to 15% from its former 50% to 53%.¹²⁵ This disclosure failed to inform investors accurately as to the debt owed by the Parent Company to Khokhar. The balloon payment amounted to almost twice the principal owed, and yet it was not disclosed to investors.

In addition, the September 2009 PPM and the three November 2009 PPMs expanded the disclosures relating to the Parent Company's business operations. In so doing, the PPMs noted that the SEC and FINRA have stringent rules relating to maintaining a specified level of net capital. The PPMs disclosed that Success Trade was subject to those requirements and could be suspended or expelled from FINRA membership if it failed to maintain sufficient net capital.

¹²⁴ CX-38, at 1, 5, CX-39, at 1, 6, CX-40, at 1, 17, CX-41, at 1, 17, CX-42, at 1, 17, CX-43, at 1, 17.

¹²⁵ CX-40, at 11, CX-41, at 11, CX-42, at 11, CX-43, at 11.

The PPMs warned that if that happened it could lead to the Parent Company's liquidation. The PPMs did not mention the sanctions actually imposed in the two settled proceedings brought by FINRA for Success Trade's failure to maintain sufficient net capital in the past.¹²⁶ This disclosure in the later PPMs was inaccurate because it represented that an event *might* happen that would be seriously detrimental to the Parent Company, when in fact that event had already happened twice. The inaccurate disclosure contributed to the false and misleading impression that Ahmed's businesses were doing well, when, in fact, they were not.

With respect to the proceeds of the offering, the September 2009 and the three November 2009 PPMs stated that the Parent Company reserved the right to use the proceeds for other purposes "not presently contemplated." The Parent Company's discretion was to be guided by what it deemed to be in the "best interest of the Company, its shareholders and its Note holders in order to address changed circumstances or opportunities." The Parent Company warned that investors would be entrusting their funds to the Parent Company's management and would be depending on management's judgment and discretion. What the PPM failed to disclose was that the proceeds from the note offering were already being used for purposes different than the stated purposes.¹²⁷ Again, the later PPMs represented that an event was a future possibility when that event had already occurred – the proceeds of the offering had already been used for purposes other than the purposes disclosed in the PPMs. The application of the proceeds to other uses was material, because the proceeds were not being used to promote the Parent Company's businesses. This made it less likely that the Parent Company could honor its obligations to investors.

¹²⁶ CX-40, at 14, CX-41, at 14, CX-42, at 14, CX-43, at 14.

¹²⁷ CX-40, at 16, CX-41, at 16, CX-42, at 16, CX-43, at 16.

(3) June 30, 2010 Supplement

The Supplement dated June 30, 2010, stated that it was intended to accompany, and be read in the context of, the PPM dated November 30, 2009.¹²⁸

For the first time, an offering document contained disclosures relating to Jade. The Supplement disclosed that Jade provided securities brokerage services through Success Trade and that the Parent Company had made business loans to Jade. The Supplement stated that the current principal amount of those loans was \$590,000, comprised of a \$300,000 revolving line of credit due by November 5, 2012, and four promissory notes maturing November 11, 2011. According to the Supplement, Success Trade was entitled to retain 11% of the management fees generated by Jade in connection with its clients' purchases of the notes, but Success Trade was not retaining those fees. The Supplement said that Success Trade would resume retaining those fees upon making certain unspecified filings with FINRA. According to the Supplement, the Parent Company was not compensating Jade or any of its employees with respect to Jade's recommendation of the offering to Jade's clients. However, the Parent Company said that it planned to reimburse Jade for expenses incurred in connection with introducing clients to the Parent Company.¹²⁹

The disclosures relating to Jade did not give an accurate description of the relationship with Jade. They did not reveal that payments to Jade were linked to the amount of capital Jade raised for Ahmed's business, or that Ahmed had not sought repayment of the purported loans from Jade. The Supplement also did not disclose the entire amount of money that had been

¹²⁸ CX-44, at 1, CX-46, at 46.

¹²⁹ CX-44, at 1, CX-46, at 1.

channeled to Jade and Jinesh Brahmhatt, which Ahmed admitted at the hearing amounted to roughly \$1.25 million.¹³⁰

The Supplement stated that the Parent Company had discretion to exceed the \$5 million maximum size of the offering and would determine whether to do so when it reached the maximum. According to the Supplement, the Parent Company had received approximately \$3,445,000 thus far.¹³¹

Although the Supplement was used from summer of 2010 through spring of 2013, by which time the offering had gone well over the \$5 million mark, there is no evidence that the \$3,445,000 figure was ever updated. Ahmed admitted that he knew at least by the end of 2010 that over \$5 million had been raised, and yet he never changed any of the PPMs or the Supplement to inform prospective investors that more than \$5 million had already been raised. He instructed Jade personnel throughout 2011, 2012, and 2013 to use the existing PPMs and Supplement.¹³² The disclosure regarding the size of the note offering concealed how much debt the Parent Company was incurring.

With respect to use of the proceeds, the Supplement represented that the Parent Company had applied the proceeds “generally in conformity with its initial proposed use of proceeds.” However, the Supplement disclosed that “in certain instances [the Company has] modified its use of proceeds as the Company’s business has demanded.” The Supplement included a table that showed that more of the proceeds had been used for share buyback and debt retirement than for advertising, which received the next largest amount of the proceeds. The text stated that the

¹³⁰ Hearing Tr. (Ahmed) 647.

¹³¹ CX-44, at 1-2, CX-46, at 1-2.

¹³² Hearing Tr. (Ahmed) 530-31.

Parent Company had applied more of the proceeds than originally planned to data center infrastructure and website development. It justified those technology-related expenditures saying that a “build out of its fully integrated and comprehensive online account application platform held such benefit in terms of customer experience and compliance efficiency, that a modification of the proposed use of proceeds was fully warranted.”¹³³

This disclosure falsely presented the appearance of great care to be accurate and up-to-date with disclosures to investors. It misleadingly suggested that additional sums were being invested in business infrastructure, when, in reality, the proceeds had been used to fund Ahmed’s personal expenses and to pay Jade for selling more notes.

For the first time, a disclosure document mentioned financial statements. The Supplement declared that the Parent Company’s “unaudited financial statements for the year ended December 31, 2009 appear on the following pages.” The heading for this paragraph specified that these were “Financial Statements (as presented in the Company’s Business Plan).”¹³⁴

As discussed below, the December 2009 business plan contained only fragmentary historical financial information. It was not a complete and accurate disclosure of the Parent Company’s financial condition. The suggestion in the Supplement that financial statements were being provided was false and misleading.

L. Respondents, Ahmed and Success Trade, Offered And Sold The Notes

Respondents, Ahmed and Success Trade, attempt to deflect responsibility for any false or misleading statements made in the offer and sale of Parent Company notes to Jade. They

¹³³ CX-44, at 2-3, CX-46, at 2-3.

¹³⁴ CX-44, at 3, CX-46, at 3.

maintain that Jade, in its role as investment adviser, was responsible for conducting due diligence and ensuring the accuracy of what was said to Jade's clients – not Ahmed, the person in control of the Issuer's disclosures, or Success Trade, the broker-dealer responsible for the offer and sale. Respondents portray Jade as an independent intermediary between them and the investors. They say that Jade had financial statements that permitted them to make full and accurate disclosures, and it is not Respondents' fault if Jade failed to disclose those financial statements.¹³⁵

The facts are otherwise. First, Ahmed was responsible for the false and misleading statements made to prospective investors in the offering documents. Second, Ahmed was personally involved in offering and selling the promissory notes. Third, Success Trade was the securities broker-dealer that offered and sold the notes. The persons who offered and sold the notes may have been employed by Jade, but they also were registered with Success Trade and sold securities as representatives of Success Trade. Fourth, even if Jade had been solely responsible for evaluating and passing along information provided by Ahmed, there is no evidence corroborating Ahmed's assertion that financial statements were made available to Jade for use in soliciting investors that were sufficient to evaluate an investment in the Parent Company notes. In light of the absence of any financial statements in investor files or attached to any PPM or the Supplement (as well as other circumstances casting doubt on Ahmed's credibility, as further described below), the Hearing Panel finds that Parent Company financial statements sufficient to evaluate the investment were not disclosed to investors.

(1) Ahmed Controlled What Was Disclosed To Investors

Ahmed controlled all aspects of the offering. He was the only officer, the only director, and the person in control of the Parent Company. In that role, he was the person who authorized

¹³⁵ Hearing Tr. (Ahmed) 517-18, 570, 1155-58 (notes were sold through Jade). Even when Ahmed was shown his own email correspondence soliciting an investor for the Parent Company notes, he asserted that Jade personnel were ultimately responsible, insisting that the investor was solicited "through Jade." Hearing Tr. (Ahmed) 606-07.

the disclosures that would be made concerning the Parent Company. He admitted that he reviewed, authorized, and approved the use of each PPM.¹³⁶ Ahmed also reviewed and authorized the use of the Supplement.¹³⁷

Ahmed also was the only officer, only director, and the person in control of Success Trade, the broker-dealer firm that offered and sold the notes. In that role, Ahmed was the person in charge of how the offering would be conducted. Ahmed directed how the disclosure documents would be distributed. As each new version of the PPM was created, Ahmed instructed that it be provided to prospective investors.¹³⁸ Ahmed personally provided the Supplement to Jinesh Brahmhatt and Ramik Aulakh on July 30, 2010, for distribution (along with a version of the November 2009 PPM) to prospective investors.¹³⁹

The PPMs confirmed Ahmed's authority. They explained that the officers and directors of the Parent Company were offering and selling the notes.¹⁴⁰ Thus, Ahmed, who was the only officer and director of the Parent Company, was the only person identified as offering and selling the notes.¹⁴¹

The PPMs also clearly identified Ahmed as the primary source of information regarding the offering. In fact, the PPMs stated that only Ahmed should be asked questions about the

¹³⁶ Hearing Tr. (Ahmed) 522-23; CX-3. In particular, with respect to the November 2009 PPM that was used most often, Ahmed testified that he reviewed the document before using it in the "money raise." He freely admitted to his own counsel's questions that he approved the statements in the document. Hearing Tr. (Ahmed) 1143-45.

¹³⁷ Hearing Tr. (Ahmed) 526.

¹³⁸ Hearing Tr. (Ahmed) 525.

¹³⁹ Hearing Tr. (Ahmed) 526-29.

¹⁴⁰ CX-38, at 6 n.2, CX-39, at 6 n.2, CX-40, at 17 n.2, 18, CX-41, at 17 n.2, CX-42, at 17 n.2, CX-43, at 17 n.2.

¹⁴¹ CX-38, at 6 n.2, CX-39, at 6 n.2, CX-40, at 17 n.2, 18, CX-41, at 17 n.2, CX-42, at 17 n.2, CX-43 at 17 n.2.

offering. The first PPM, like all the others, instructed, "Any and all questions regarding this offering must be directed solely to Fuad Ahmed." There was no mention of Jade in any PPM.¹⁴²

(2) Ahmed Personally Offered And Sold The Notes

Ahmed admitted that he personally sold some notes himself.¹⁴³ Indeed, email correspondence reflects that Ahmed had numerous contacts with potential note investors and sought to persuade them to invest or to increase their investment in the Parent Company.¹⁴⁴

Nainesh Brahmhatt, a Jade employee registered with Success Trade, confirmed that Ahmed was intimately involved in the sales effort. He testified that Ahmed met with many of the prospective note investors personally to explain his business, as part of the solicitation process.¹⁴⁵ Basi, another Jade employee registered with Success Trade, similarly testified that he had attended between five and ten meetings with Ahmed and potential note investors. He testified that Ahmed generally described the online brokerage business and that Ahmed did not discuss the financial condition of his companies other than to say that they were doing well and growing.¹⁴⁶ Contemporaneous email correspondence establishes that Ahmed regularly met with prospective investors to promote sales of the notes.¹⁴⁷

In addition to his involvement with soliciting the athletes who were Jade's clients, Ahmed solicited other potential investors. He testified regarding an email to one of these other

¹⁴² Hearing Tr. (Morris) 210; CX-38, at 4, 12, CX-39, at 4, 12, CX-40, at 2, 6, CX-41, at 2, 6, 20, CX-42, at 2, 6, 20, CX-43, at 2, 6, 20. The other PPMs contained similar instructions. CX-38 – CX-43.

¹⁴³ Hearing Tr. (Ahmed) 517, 1162-63.

¹⁴⁴ CX-244, CX-246, CX-250, CX-252 – CX-254, CX-256 – CX-258.

¹⁴⁵ Hearing Tr. (Nainesh Brahmhatt) 889-94. Brahmhatt spoke generally about what Ahmed would say in meetings with clients and also listed seven particular clients he remembered meeting with Ahmed.

¹⁴⁶ Hearing Tr. (Basi) 665-69.

¹⁴⁷ CX-249 (saying to "Fuad" directly that a client was coming to the office and "please make sure you meet with him like you have been doing for the rest of the investors.").

investors. In an open letter from Ahmed attached to that email, Ahmed made statements clearly designed to make it appear that the Parent Company was doing well, concealing that it had lost roughly \$1 million in 2009. For example, he wrote, "Clearly 2009 was a very tough year for almost every company except ours."¹⁴⁸

The record also contains email correspondence between Ahmed and investors in which he encouraged investors to make additional note purchases or to extend existing note terms or to convert existing notes to shares of stock. In these emails, Ahmed consistently represented his companies as successful and growing.¹⁴⁹ He did not disclose that in 2012 Success Trade suffered its largest net loss ever.¹⁵⁰ He did not disclose the Parent Company's expenses.¹⁵¹

(3) Success Trade Offered And Sold The Notes

Success Trade was responsible for the sales process, not Jade. Jade employees who offered and sold the promissory notes were registered with Success Trade.¹⁵² Jade identified itself to investors in their account statements as a division of Success Trade.¹⁵³ All of Jade's clients were customers of Success Trade.¹⁵⁴ Jade opened accounts at Success Trade for its customers and the customers held their notes at Success Trade.¹⁵⁵ Notably, correspondence with

¹⁴⁸ Hearing Tr. (Ahmed) 558-61; CX-246, at 44.

¹⁴⁹ CX-244, CX-246, CX-250, CX-252 – CX-254, CX-256 – CX-258.

¹⁵⁰ Hearing Tr. (Ahmed) 599-600.

¹⁵¹ Hearing Tr. (Ahmed) 602.

¹⁵² Hearing Tr. (Ahmed) 509-10, 517-18; CX-2, CX-24, CX-27, CX-28.

¹⁵³ Hearing Tr. (Morris) 200; CX-109.

¹⁵⁴ Hearing Tr. (Ahmed) 514.

¹⁵⁵ Hearing Tr. (Morris) 201. As Ahmed admitted, note holders generally held their notes in brokerage accounts at Success Trade's clearing firm, and they received their monthly interest payment through those accounts. Hearing Tr. (Ahmed) 517.

investors regarding the offering was sent under the name of Success Trade, not Jade.¹⁵⁶ Success Trade sent correspondence to two state regulators representing that the notes were sold through Success Trade.¹⁵⁷

(4) Respondents Failed To Provide Issuer Financial Statements That Would Inform Investors Of The Issuer's True Financial Condition

Even if it had been Jade's responsibility to conduct due diligence and inform investors of facts material to their investment decisions, Ahmed did not (as he claims) give Jade "all the financial information necessary to evaluate the investment."¹⁵⁸ In fact, the evidence supports the contrary conclusion that Ahmed took steps to hide financial information from investors.

December 31, 2008 business plan. Respondents point to a business plan dated December 31, 2008, which they contend gave the Jade/Success Trade salespeople all the financial information necessary to evaluate the investment.¹⁵⁹ They are wrong. The 2008 business plan did not contain any historical financial information. Instead, the 2008 business plan contained financial projections for the years ending September 2009 through 2013 – all in the future. Some of the financial projections were clearly labeled "projections," while others were not. But, regardless of the label, all the financial information concerned projections for the future. This

¹⁵⁶ A package with the Supplement was sent to a note investor but then returned. The return address was to Success Trade at its main office in Washington, DC – not to Jade, at its office in Virginia. Hearing Tr. (Morris) 226-27.

¹⁵⁷ Hearing Tr. (Ahmed) 1415. In February 2013, Success Trade sent a letter to both the D.C. and Virginia Securities Regulators expressly representing that the notes were sold through Success Trade, not Jade. *Id.*; CX-334, at 1, 11-12.

¹⁵⁸ Resp. PH Br. 1, 4.

¹⁵⁹ *Id.*

was insufficient to inform the Jade/Success Trade salespeople or the investors of the Parent Company's current financial condition.¹⁶⁰

In fact, in hearing testimony, Ahmed described the financial information at the end of the December 2008 business plan as projections that he thought were reasonable estimates of what Success Trade could achieve. He said, "This was our business plan that we – what my vision was for the company and how we planned on moving forward ... it envisions my thought process of what the company can do, what it would be capable of..." When asked about the financial information at the end, he agreed that the information constituted "projections" and said that the projections were "based on what the company can do, what the capabilities of the company are."¹⁶¹

To the extent that a projection in the 2008 business plan was not labeled a projection and it was used in succeeding years in selling the notes, it was misleading. Thus, if a 2009 financial projection without the label "projection" was used in 2010 sales materials, it would have misleadingly appeared as though it were a historical financial report.

October 29, 2009 business plan. Respondents also point to another business plan dated October 29, 2009. It contained a Parent Company income statement for the six months ending June 30, 2009 (showing a net loss of approximately \$257,000), and a Parent Company balance sheet for June 30, 2009. The balance sheet was not very detailed. It showed a little over \$3,000 in a checking/savings account and \$945,406.57 in "Other Current Assets," which were not otherwise identified. The only other assets reflected on the balance sheet were the investments in

¹⁶⁰ RX-5000. The financial projections include profit and loss statements for the year ending September 2009, and forward through the year ending September 2013. Similarly, the financial projections include balance sheets for the year ending September 2009, and forward through the year ending September 2013. The profit and loss statements and balance sheets do not bear headings that indicate they are projections, but it is obvious in the context of a business plan dated December 2008.

¹⁶¹ Hearing Tr. (Ahmed) 1096-97.

Success Trade and BP, which totaled \$31 million. Total liabilities were roughly \$2.5 million. The liabilities were only broken down as current and long-term.¹⁶²

This business plan did not reveal the heavy debt burden borne by the Parent Company, or the struggles its subsidiary, Success Trade, was undergoing. The business plan was insufficient to inform investors regarding the Parent Company's true financial condition even as of the date of the document, much less as the offering continued over the course of four years and the financial information regarding the first half of 2009 became stale.

2009 Issuer balance sheet and profit/loss statement. Ahmed testified that he personally gave Jinesh Brahmbhatt a Parent Company balance sheet and a profit/loss statement for 2009 in November or December 2009 to use with the Supplement in soliciting investors. According to his testimony, he mailed the Supplement to Jade without these documents and then separately hand-delivered the financial documents and instructed Brahmbhatt to attach the financial documents to the Supplement. The balance sheet listed officer loans as assets of the company. It also included the \$800,000 Khokhar loan in a list of long-term liabilities (without disclosing the interest rate on the principal owed). The profit/loss statement showed a realized loss of \$22,651.31. It also showed a "restructuring" fee of \$15,000 but did not explain or identify what had been restructured.¹⁶³

¹⁶² RX-5016. Ahmed testified that he personally handed the October 2009 business plan to Jinesh Brahmbhatt and Aulakh in November or December 2009 for them to give investors. He was uncertain whether he ever provided a copy electronically. Hearing Tr. (Ahmed) 1167-72, 1260-63. There is no record evidence corroborating Ahmed's testimony.

In October 2009 Jinesh Brahmbhatt requested financial information on a monthly basis from Ahmed and MDR. RX-5015. Aulakh also requested quarterly "financials" to review and show to clients. RX-5020. The information requested and provided related to the broker-dealer firm, Success Trade, and not the Parent Company that issued the notes. RX-5019; Hearing Tr. (Ahmed) 1292-93.

¹⁶³ Hearing Tr. (Ahmed) 1260-63; CX-116.

There is no evidence to corroborate Ahmed's testimony that he instructed Jade to convey these financial documents to investors. As noted above, financial documents did not appear in any investor file. Derrick Leak, a Jade employee who reviewed investor files when he joined Jade in January 2013,¹⁶⁴ testified that he never saw any Parent Company financial statements.¹⁶⁵ Morris, the FINRA examiner, also testified that there were no financial statements in any of the files for note investors.¹⁶⁶ Because Ahmed claims to have personally delivered these particular financial documents, there is no cover letter or email reflecting the purported instruction. Ahmed did not explain why he did not attach the financial documents to the Supplement if he wanted them included with it.¹⁶⁷

In any event, although these documents revealed more information than the PPMs about the Issuer's assets and liabilities, they still did not provide a full, accurate picture of the Issuer's financial condition. They also became stale as the offering continued long past December 2009 into the spring of 2013.

Other financial information. Ahmed testified that he gave Jade personnel records and statements prepared by his accountant, sometimes monthly, sometimes quarterly. According to Ahmed, those statements listed each investor and the amount the investor had invested in the Parent Company. They also might show the amount Jade had raised through the note offering

¹⁶⁴ Hearing Tr. (Morris) 96-98; CX-31.

¹⁶⁵ Hearing Tr. (Leak) 1015, 1048.

¹⁶⁶ Hearing Tr. (Morris) 199.

¹⁶⁷ There is further reason to doubt Ahmed's testimony that he delivered these documents to Jade in November or December 2009. The documents bear a July 2010 date in the upper left-hand corner. That date appears to mark the date on which the documents were printed. The documents themselves purport to be statements "as of" December 31, 2009.

and the amount it owed to Ahmed's company. Ahmed testified that this information was different from the financial information in the business plan.¹⁶⁸

The record provides little basis to evaluate how complete Ahmed's disclosures were in the periodic meetings with Jade. To the extent the December 31, 2009 financial statements discussed above are examples of the kind of information Ahmed shared with Jade personnel, it is evident that the information was not sufficient to convey an understanding of the Issuer's true financial condition.¹⁶⁹ To the extent that the information showed, as Ahmed testified, who the investors were and how much Jade had raised in the note offering, the information was geared more with an eye to determining the compensation to be paid to Jade than to conveying information regarding the Issuer's financial condition.

Ahmed's active efforts to conceal financial information. In fact, there was evidence that Ahmed purposely concealed financial information from investors.

For example, when an investor actually requested financial information, Ahmed pretended that the offering was closed and avoided providing the information. The investor requested by email a "complete 5 yr annual report of the companies numbers" prior to making an additional note investment.¹⁷⁰ Ahmed wrote back that he would have to consult his corporate attorneys before making such information available because the company was exploring the

¹⁶⁸ Hearing Tr. (Ahmed) 1127-29, 1441-44.

¹⁶⁹ Ahmed also testified that even before the offering began he shared financial information with Brahmbhatt. He testified that he met with Brahmbhatt in January and showed Brahmbhatt Parent Company balance sheets from QuickBooks, a financial software program Ahmed used in his businesses, for 2005-2008. CX-110 – CX-115. At that time he also showed Brahmbhatt audited financial statements of Success Trade for 2004-2007. Hearing Tr. (Ahmed) 1113-24; CX-120 – CX-123. At some point he also gave Brahmbhatt audited financial statements of Success Trade for 2008. Hearing Tr. (Ahmed) 1119-21; CX-124. However, much of this material was too old to have much significance for the current financial condition of the Parent Company, even at the beginning of the offering, much less in the later years of the offering. Even aside from that, the documents had many of the same deficiencies as those discussed above in connection with the business plans.

¹⁷⁰ CX-257.

possibility of “going public.” Ahmed claimed that he could not take an additional investment from the person making the inquiry because “this round is closed.”¹⁷¹ However, Ahmed admitted that other investors were permitted to buy notes, even after he told this investor that the additional note investment was “closed.”¹⁷²

Similarly, when another investor requested current financial information regarding the Parent Company, Ahmed instead provided the investor with a valuation report for the software subsidiary of the Parent Company. As discussed further below, that report did not address the financial condition of the Parent Company and, furthermore, was based on speculation regarding potential growth in the software licensing business. Ahmed claimed in testimony that he had discussed “financials” in a telephone conversation with the investor, but then admitted that he never told the investor that the Parent Company was having difficulty with making its interest payments or that it might not be able to make the principal payments on the notes. Ahmed used the valuation report to misdirect the investor’s attention.¹⁷³

M. Respondents Encouraged Investors To Extend Or Convert Maturing Notes

By the fall of 2012, the Parent Company’s largest expense had become the interest payments on the notes. It owed approximately \$191,000 per month on the notes. At that point, principal repayments on the three-year notes that had been issued in 2009 began to come due. Ahmed admitted that the Parent Company that had issued the notes did not have the ability to

¹⁷¹ *Id.*

¹⁷² Hearing Tr. (Ahmed) 603-07.

¹⁷³ Hearing Tr. (Ahmed) 593-98; CX-258.

pay both the principal and the interest due on the notes. He admitted that in the 2011-2012 timeframe he knew that the Parent Company needed to restructure its debt.¹⁷⁴

Although Ahmed strenuously denied that he “incentivized” note holders to convert their notes to stock shares, the facts reveal that he was desperate to encourage note holders to extend the term of their notes (so that repayment of principal would be delayed) or to convert their notes to equity (so that the Parent Company could cease making interest payments and never be obliged to repay the principal). In order to encourage investors to extend or convert maturing notes, he authorized higher interest rates on many notes that were extended, and he authorized others to convert their notes to stock at a lower price than the \$2.00 per share specified in the investor notes.¹⁷⁵

Ahmed, along with Jinesh and Nash Brahmhatt and Aulakh, solicited note holders to extend and convert their notes.¹⁷⁶

(1) Ahmed Made Deceptive Use Of Projections In BP Valuation Report

One of the items Ahmed used to encourage note holders to convert their notes to shares of stock was a valuation report for BP, the software subsidiary of the Parent Company.¹⁷⁷ On September 17, 2012, Ahmed asked a consultant, Felix Danciu, to prepare the report. Ahmed told Danciu the report was for the purpose of determining whether to invest more money in BP. Six

¹⁷⁴ Hearing Tr. (Ahmed) 564-66.

¹⁷⁵ Hearing Tr. (Ahmed) 568-72.

¹⁷⁶ Hearing Tr. (Ahmed) 573.

¹⁷⁷ CX-263.

days later, Danciu delivered the report to Ahmed.¹⁷⁸ The report valued BP at \$47.1 million.¹⁷⁹ It projected that BP's trade revenues would more than double from 2013 to 2014 and it would have a profit of 32%.¹⁸⁰

The day after receiving the report, Ahmed emailed it to the business manager for two of the athlete note holders. In the email, Ahmed expressly represented to the business manager that his company had been valued at \$47.1 million.¹⁸¹ Ahmed did not distinguish in the email between the software company, BP, and the Issuer of the notes, which was the Parent Company. Ahmed did not disclose that the valuation did not consider the financial condition of the Parent Company that had issued the notes.¹⁸²

Nor did Ahmed explain in the email the circumstances and speculative basis for the valuation figure in the report. Ahmed had told Danciu that BP had been purchased for \$11.5 million in 2001. Ahmed's company had paid for BP mostly with its own stock, however, so even the \$11.5 million figure was based on an estimated value for Ahmed's company.¹⁸³ Ahmed had also told Danciu to consider the value of BP on the assumption that it would sell 25 licenses in 2013, even though BP's only customer in the fall of 2012 was Success Trade.¹⁸⁴ As Ahmed admitted he knew at the time he received the valuation report, it was based on a projection of

¹⁷⁸ Hearing Tr. (Ahmed) 573-74, 1332-33, Hearing Tr. (Danciu) 711.

¹⁷⁹ Hearing Tr. (Ahmed) 585-86.

¹⁸⁰ Hearing Tr. (Danciu) 712-13.

¹⁸¹ Hearing Tr. (Ahmed) 585-88; CX-252.

¹⁸² Hearing Tr. (Ahmed) 588-89.

¹⁸³ Hearing Tr. (Ahmed) 582-83.

¹⁸⁴ Hearing Tr. (Ahmed) 576-80. Ahmed claimed already to have two such agreements with independent third parties. Hearing Tr. (Ahmed) 1336-43. However, he admitted on cross-examination that he had only entered those agreements during the second day of the hearing. Hearing Tr. (Ahmed) 1405-07; RX-5118 – RX-5119.

future cash flow of BP.¹⁸⁵ It assumed that by the end of 2017, BP would have as many as 135 software licensing customers.¹⁸⁶

Ahmed followed up with an October 3, 2012 email to the same business manager offering the two athletes a special deal, different from what was offered through the PPMs. He offered a note under which they would be paid 25% for the first six months (double the interest rate in the PPMs) and 20% thereafter.¹⁸⁷ He similarly used the BP valuation report with other investors, and similarly offered them better terms than were offered in the PPMs.¹⁸⁸

Danciu testified that the report was never intended to be used for securities transactions or to be shown to anyone outside Ahmed's company. Danciu further testified that he did no work at all with respect to the Parent Company and its historical financial information. He was never given historical financial information even with respect to BP, the company he was valuing.¹⁸⁹ Danciu testified that the BP report was not an independent report because it was based on numbers given to him by Ahmed.¹⁹⁰ The report expressly stated that it was not to be used for any purpose other than internal use, and Danciu testified that he never authorized

¹⁸⁵ Hearing Tr. (Ahmed) 578.

¹⁸⁶ Hearing Tr. (Ahmed) 579, Hearing Tr. (Danciu) 709-10.

¹⁸⁷ Hearing Tr. (Ahmed) 589-90.

¹⁸⁸ Hearing Tr. (Ahmed) 592-98. Ahmed obtained a \$225,000 investment in a five-month note at 30% in October 2012 after discussing the \$47.1 million valuation report in an email. Hearing Tr. (Ahmed) 592-93; CX-254. Ahmed responded to another investor's request for current financial information of the Parent Company by email, attaching the BP valuation report. That investor made an additional purchase of a note for \$50,000 and converted all of his existing notes to stock at a price of \$1.50, better than the \$2.00 price authorized under the PPMs. Hearing Tr. (Ahmed) 593-98; CX-258. Although Ahmed vaguely claimed that he had had a telephone call with the investor where he discussed the Parent Company's "financials," he could not recall details, such as whether he told the investor that the Parent Company might not be able to make principal payments on its outstanding notes. Hearing Tr. (Ahmed) 596-97.

¹⁸⁹ Hearing Tr. (Danciu) 699-704.

¹⁹⁰ Hearing Tr. (Danciu) 704-05.

Ahmed to give the report to anyone outside of Ahmed's company.¹⁹¹ Danciu never independently verified any of the assumptions used in the valuation report.¹⁹²

(2) Ahmed Gave False Impression That Listing On A European Exchange Was Imminent

To encourage note holders to convert their notes to shares of stock, Ahmed created the false impression that he was about to list his company on a European stock exchange. He told Jade personnel and note investors that the company would be listed at a share price more than triple the price at which note investors were permitted to pay to convert to shares. Ahmed presented the conversion from note to equity as a fleeting opportunity to make a great profit. If a note holder had a \$100,000 note, under the PPM the note holder could receive 50,000 shares. If those shares were about to be listed at \$6.50 per share, as Ahmed said they were, then the note holder would hold stock worth \$325,000, instead of a note paying interest on \$100,000 of principal. However, interest payments would cease upon conversion.¹⁹³

One of Jade's employees, Leak, testified about the way in which Ahmed and Danciu described the status of the listing effort. On January 25, 2013, Leak attended a lunch meeting that included Ahmed, Danciu, Jinesh Brahmhatt, and Aulakh.¹⁹⁴ Leak testified, "[T]he way it was pitched to us is it could be potentially very lucrative, you know, especially because, if [Jade's clients are] getting it at \$2 a share and they're listing it at five Euros or \$6.50, it's a pretty wide spread; so it could potentially be pretty lucrative for the guys if they decided to convert."¹⁹⁵

¹⁹¹ Hearing Tr. (Danciu) 706-07.

¹⁹² Hearing Tr. (Danciu) 708-09.

¹⁹³ Hearing Tr. (Leak) 1003-04, 1011.

¹⁹⁴ Hearing Tr. (Leak) 1001-15.

¹⁹⁵ Hearing Tr. (Leak) 1004.

Ahmed told Jade personnel that he might need additional capital to conclude the European listing. Ahmed “mentioned that he might need another \$500,000 in capital between now and the IPO.”¹⁹⁶ This was explained as capital needed to meet with lawyers and market makers and to promote the listing.¹⁹⁷ Ahmed told them that he planned to list the company on a German exchange in March or April of 2013.¹⁹⁸

Ahmed and Danciu conveyed a sense that the listing process “was moving pretty fast” and that sales personnel needed to “get out in front of the clients and explain what was happening with Success Trade and what the options were, to either convert or to keep the notes as is.”¹⁹⁹ It came across as a “now-or-never type scenario.”²⁰⁰

At the January lunch meeting, Ahmed provided the BP valuation report. Neither Ahmed nor Danciu explained how the valuation was prepared. Neither suggested that it would be inappropriate to share the valuation report with any of Jade’s clients. During this meeting, Ahmed never revealed the Issuer’s increasing difficulty in paying off its maturing debt.²⁰¹

In fact, at the time of the January lunch, listing by March or April of 2013 was virtually impossible. Ahmed’s plan was to list a foreign holding company’s stock on the exchange, but even as of March 20, 2013, he had not decided where he was going to form that holding company and he had not submitted any applications to any exchanges, foreign or domestic, to list

¹⁹⁶ CX-265.

¹⁹⁷ Hearing Tr. (Leak) 1005.

¹⁹⁸ Hearing Tr. (Leak) 1003-06.

¹⁹⁹ Hearing Tr. (Leak) 1016.

²⁰⁰ Hearing Tr. (Leak) 1017.

²⁰¹ Hearing Tr. (Leak) 1005-13.

the stock. He also needed money that he had not yet raised in order to follow through on the plan.²⁰²

Ahmed promoted the idea of conversion with numerous investors by giving them a wholly unrealistic idea of the speed and likelihood of a public listing. He testified, for example, that he met with a couple of investors who had notes maturing in late December 2012 and told them that the Parent Company was going to publicly list its stock in the April to June 2013 timeframe at a price of four to five Euros. He did not tell them that the Parent Company needed to raise more money to pay interest on their notes.²⁰³ Similarly, when he had dinner with another investor in March 2013, Ahmed told him that he expected to list Parent Company stock in the April to June 2013 timeframe. Ahmed did not reveal that the Parent Company would be unable to make interest payments to the investor if the investor did not convert his notes to equity. That investor had roughly \$2 million in notes. After the conversation, he did agree to convert his notes.²⁰⁴

(3) Ahmed Gave False Impression That Acquisition Of Australian Company Was Imminent

One of the other ways Ahmed encouraged note holders to convert – and explained the delay in getting listed on a European exchange – was to lead them to believe that he was about to purchase an Australian company that would enhance the value of his companies. He told Jinesh Brahmhatt and Aulakh that the Australian company was undervalued and had the potential of

²⁰² Hearing Tr. (Ahmed) 616-19.

²⁰³ Hearing Tr. (Ahmed) 619-23.

²⁰⁴ Hearing Tr. (Ahmed) 624-27. Ahmed testified as to other such conversations in which he tried to persuade investors to convert to equity and gave them the impression that listing on a foreign exchange was imminent. Hearing Tr. (Ahmed) 627-34.

trading at four times its current price. He told them he would rather wait to become listed until accomplishing the acquisition.²⁰⁵

On February 7, 2013, Ahmed made a proposal to purchase the Australian company for approximately \$15 million. In the proposal, Ahmed represented that the Parent Company had sufficient “facilities in place” to finance the acquisition. Ahmed proposed that a first installment of \$3 million be made on March 28, 2013.²⁰⁶ As of March 20, 2013, however, Ahmed did not have the \$3 million required to make the first installment payment.²⁰⁷

Ahmed admitted that as of April 4, 2013, the financials of the Parent Company “didn’t look too good.” However, he believed that he could finance the purchase of the Australian company on the basis of the Australian company’s own cash flow, without relying on the Parent Company.²⁰⁸

Ahmed engaged in discussions with an Australian bank called Westpac about financing the acquisition of the Australian company. On March 14, 2013, the bank sent Ahmed a letter as an expression of interest regarding your financial requirements to complete the purchase of the Australian company. However, as of the beginning of April 2013 they were only at the beginning stages of due diligence and setting up the legal structure for the transaction. In an April 4, 2013 email, Westpac set out a critical path of things to be done in the next week. The things to be done included a bank “mandate fee” of \$20,000 to be paid by Ahmed, setting up an Australian holding company, and getting financial and legal due diligence “under way.”

²⁰⁵ Hearing Tr. (Ahmed) 638-40, 1360-63.

²⁰⁶ CX-336.

²⁰⁷ The testimony was that there was almost a one-to-one correspondence between the Australian dollar and the U.S. dollar. For purposes of this decision, the Australian dollars specified in the letter of intent are treated as the equivalent of U.S. dollars. Hearing Tr. (Ahmed) 638-39.

²⁰⁸ Hearing Tr. (Ahmed) 1373-75.

Westpac awaited the payment of the fee, as reflected in email correspondence on April 7-8, 2013. On April 8 or 9, 2013, Ahmed withdrew from the transaction.²⁰⁹

The Hearing Panel finds that Ahmed never had the resources to complete a \$15 million acquisition and he knew it. The Panel finds that when Ahmed was required to make a \$20,000 payment in order to pursue bank financing for the acquisition, he withdrew.

N. Note Payments Stop In March 2013

In March 2013, the Parent Company ceased making payments on the principal and interest it owed to note holders. At that time, it also stopped making payments to Khokhar. In his testimony, Ahmed initially tried to blame FINRA, at least in part, for the inability of the Parent Company to meet its payment obligations, but grudgingly admitted that the Parent Company had to restructure because it did not have the money to make the principal payments coming due.²¹⁰

III. Respondents' Refusal To Comply With D.C. Securities Regulator's Instruction To Stop Offering Parent Company Notes

The D.C. Securities Regulator, in cooperation with the Virginia Securities Regulator, conducted an on-site examination of Success Trade in June 2012. By letter dated October 9, 2012, the D.C. Securities Regulator identified areas of concern arising from the examination and gave clear instructions to Success Trade to stop offering Parent Company notes.²¹¹

²⁰⁹ RX-5061. The email traffic reflecting that Ahmed withdrew in a conversation he had with the Australian company's senior executive bears confusing date stamps. One of the emails is date-stamped 09/04/2013, which might appear to a U.S. person as September 4, 2013, but might mean April 9, 2013, to a European. The email string continues after that email with the latest date of April 8, 2013. Crossing the international dateline adds to the confusion. What is plain, however, is that Ahmed withdrew from the transaction in early April 2013.

²¹⁰ Hearing Tr. (Ahmed) 566-68, 572-73, 1424-25.

²¹¹ CX-268. See also Success Trade's response to the Virginia Securities Regulator's similar concerns. CX-334.

In numbered paragraph 1 of the letter, the D.C. Securities Regulator expressed concern that Success Trade had made unsuitable recommendations in making the offering. The letter sought documentation that each investor was an accredited investor.²¹²

In numbered paragraph 8, the letter expressed concern that Success Trade had offered and sold unregistered securities without an exemption. Among other things, the D.C. Securities Regulator wrote, "Immediately cease offering and selling [Parent Company] securities until such securities are registered." In addition, the letter instructed that repayment be offered to each note investor by November 7, 2012.

In numbered paragraph 9, the letter voiced a concern that the notes had been sold pursuant to material misstatements or omissions because the PPMs claimed an exemption under Rule 506 when the SEC filing had claimed an exemption under Rule 505.

Numbered paragraph 9 separately repeated the directive to immediately cease offering and selling the Parent Company notes until the concerns about misstatements and exemption from registration were addressed.²¹³

In response to these concerns, Respondents asserted in a letter sent to both the D.C. Securities Regulator and the Virginia Securities Regulator that the SEC filing pursuant to Rule 505 was an immaterial mistake that would be corrected by refiling under Rule 506. Ahmed testified at the hearing that he was very familiar with the letter, which was signed by Success Trade's compliance officer. The letter told the state regulators, "The solicitation of and offering of the Success Trade Inc. PPM was not done through Jade. Rather it was through the parent

²¹² CX-268.

²¹³ CX-268.

company[’s] (Success Trade, Inc.) broker-dealer arm, Success Trade Securities, Inc. and its registered agent of the STS McLean, Virginia branch office.”²¹⁴

Respondents did not cease offering and selling Parent Company notes. Ahmed testified that he disputed the regulatory findings and thought that, in any event, the regulatory concerns could be addressed without stopping the offering.²¹⁵

IV. Admissions Regarding Use Of Proceeds

Ahmed admitted that a portion of the note offering proceeds was used to pay interest to existing investors. He expressly admitted that this happened throughout the offering from 2009 through 2013. He admitted that more than \$4 million of the proceeds were used in this way.²¹⁶ Ahmed admitted that the chart purporting to show the use of note proceeds, which was used in soliciting investors, did not reveal that he had used note proceeds to pay interest to earlier investors.²¹⁷

Ahmed admitted that throughout the offering period he personally took another portion of the note offering proceeds in the form of so-called “officer loans.” Although Enforcement calculated roughly \$800,000 in “officer loans,” Ahmed estimated that “officer loans” involved a few hundred thousand dollars.²¹⁸ These loans were undocumented and interest free. Ahmed used the money to pay for food and clothes. He also had the Parent Company pay all his personal credit card bills each month from the proceeds. Sometimes the proceeds paid for his

²¹⁴ Hearing Tr. (Ahmed) 1150-54, 1415; CX-334, at 3-5, 11-13. The letter responded to myriad other concerns raised by the state regulators as well, but it is unnecessary to address those here.

²¹⁵ Hearing Tr. (Ahmed) 1150-54.

²¹⁶ Hearing Tr. (Ahmed) 540-41, 646-47.

²¹⁷ Hearing Tr. (Ahmed) 552.

²¹⁸ Hearing Tr. (Ahmed) 647-48.

personal travel. Ahmed used the proceeds to make monthly payments on his vehicle lease, a Range Rover that he used for both personal and business purposes. He also gave his brother money from the purported "officer loans."²¹⁹ Ahmed admitted that the "officer loans" were not disclosed in the PPMs or Supplement.²²⁰ He also admitted that the "officer loans" were not disclosed on the chart purporting to disclose the use of the proceeds.²²¹

Ahmed admitted that some of the note proceeds were deposited into a Parent Company brokerage account and that he traded securities with that money. He admitted that this use of the proceeds also was not disclosed on the chart.²²²

Ahmed admitted that the Parent Company gave about \$1.25 million of the proceeds to Jade.²²³ He characterized the transactions as "loans" (a promissory note and a revolving line of credit). The total amount of proceeds given to Jade, however, exceeded any documented transactions between the Issuer and Jade. Ahmed admitted that Jade has not repaid any of these "loans" and that he has done nothing to collect on the "loans," beyond some uncorroborated, vague, discussions with Jinesh Brahmhatt about the subject of repayment. Ahmed admitted that the proceeds were used for Jade's payroll and to assist Jinesh Brahmhatt to pay back the money

²¹⁹ Hearing Tr. (Ahmed) 541-45, 549, 1225-31; RX-5121. A couple of days before the hearing, Ahmed prepared and executed a promissory note to the Parent Company. The promissory note specified an amount borrowed and provided for interest. According to Ahmed, he took approximately \$471,000 in "officer loans," which is reflected in the note he signed. Enforcement estimated that he took more than \$800,000 in "officer loans." Ahmed explained the difference, saying that he had charged business expenses on his personal credit card. Hearing Tr. (Ahmed) 1226-28.

²²⁰ Hearing Tr. (Ahmed) 1232. Ahmed claimed he thought it was unnecessary to disclose the "officer loans" in the PPMs and Supplement because they were disclosed in his "financials." *Id.* As discussed above, investor files contained no financial statements.

On August 26, 2013, Ahmed signed a promissory note agreeing to pay principal and interest to the Parent Company for the \$400,000 he admitted he had previously taken in the form of undocumented "officer loans." RX-5121.

²²¹ Hearing Tr. (Ahmed) 548, 552-53.

²²² Hearing Tr. (Ahmed) 550, 553.

²²³ Hearing Tr. (Ahmed) 647.

he owed to LPL when he left that firm. Ahmed acknowledged that Brahmhatt asked him to pay the loan because he could not afford it. Ahmed also acknowledged that Brahmhatt needed the “loans” from the Parent Company for his business to survive.²²⁴ Ahmed admitted that the chart purporting to show how the note proceeds were used did not disclose that some of the money had been “loaned” to Jade.²²⁵

V. Sales Of Unregistered Securities

The PPMs told investors that the securities were exempt from registration under SEC Rule 506 of Regulation D.²²⁶ The Parent Company filed a notice with the SEC claiming a different exemption, however, under SEC Rule 505 of Regulation D.²²⁷ Ahmed testified that the filing with the SEC was in error and that the exemption under SEC Rule 506 applied to the offering.²²⁸ As discussed above, Respondents took the same position in their February 2013 letters to the state securities regulators.²²⁹

VI. Investor Losses

Enforcement introduced into evidence a list of investors who had lost money. The document also specifies the amount each investor lost. The total, including pre-judgment interest, is \$13,706,288.28.²³⁰ The exhibit contains additional charts showing the basis for the

²²⁴ Hearing Tr. (Ahmed) 545-48, 1140-42.

²²⁵ Hearing Tr. (Ahmed) 553.

²²⁶ Hearing Tr. (Ahmed) 209-10, Hearing Tr. (Morris) 342-43, 345; CX-43.

²²⁷ RX-5087.

²²⁸ Hearing Tr. (Ahmed) 1147-52.

²²⁹ CX-334.

²³⁰ CX-2.

calculation, and other parts of the record contain the underlying documents from which the calculations were derived.²³¹

VII. Ahmed's Testimony Lacked Credibility

The Hearing Panel finds that Ahmed's testimony lacked credibility. Where his testimony is not corroborated by independent evidence, the Hearing Panel does not find his testimony sufficiently reliable by itself to establish the facts.

First, on its face, much of Ahmed's testimony was contradicted by the evidence. Even when his testimony was not directly contradicted by the evidence, however, the absence of any corroborating evidence in circumstances where one would expect corroborating evidence to exist often strongly suggested that Ahmed's testimony was not true.

For example, Ahmed testified that he gave Brahmhatt and Jade personnel all the financial information necessary to evaluate the investment in Parent Company notes in order for them to provide the information to investors. Ahmed pointed to two business plans for the Parent Company that appeared in some investor files. Those documents do not support the claim. One of the business plans actually contained only projections; the other contained only fragments of historical information relating to the first few months of the offering. They were far from providing all that was necessary to evaluate the investment, particularly in the later years of the offering when even the fragments of historical information became stale.

Ahmed also pointed to the December 31, 2009, balance sheet and profit and loss statement that he claimed he hand-delivered in November or December 2009 to Jinesh Brahmhatt for use with the Supplement. The record contains no adequate explanation for why

²³¹ CX-2. Six of the 65 investors were fully paid what was owed to them, and Enforcement sought no restitution for those six. A Restitution Addendum is attached to this decision showing calculations for only the 59 investors who lost money.

he did not provide the statements along with the Supplement but instead separately hand-delivered them so that there is no record of his purported instruction to use them with the Supplement. In any event, those documents also did not disclose all the facts necessary to understand the Issuer's financial condition and were misleading.

The fact that no financial statements were found in the investigation leading to this proceeding strongly suggests that Ahmed never instructed that financial statements be given to investors. Others who attended meetings Ahmed had with investors testified that he did not provide financial documents or specific financial numbers. Rather, Ahmed spoke generally about how well his companies were doing.²³²

Similarly, Ahmed maintained that he had refused a *quid pro quo* arrangement with Brahmbhatt and Jade, but the email correspondence proves that there was one, even if informal and implicit. Ahmed's uncorroborated statement that he told Brahmbhatt and Jade he would not pay them for raising capital for him cannot overcome the evidence that he did in fact pay Brahmbhatt for selling the notes for him.

The evidence also contradicts Ahmed's assertion that the purported "officer loans" were fully disclosed. As he admitted, no PPM disclosed the "officer loans." Moreover, the evidence suggests that the purported "officer loans" were never really "loans" at all, since no terms were documented at the time, and Ahmed never made any payments on them. He only signed a loan document committing to repay a portion of the money while the hearing was ongoing.²³³

Second, on critical points, Ahmed's testimony was vague and misleading. For example, Ahmed repeatedly claimed that he had given Brahmbhatt and Jade "financials" for use with

²³² Hearing Tr. (Basi) 665-69, 670-74.

²³³ RX-5121.

investors and that those financials were sufficient to evaluate the investment. He asserted that he gave Jade personnel both unaudited and “audited” financials. He later admitted that he had used the term “audited” to refer to information put together by an accountant instead of by his own staff. He did not use the term “audited” to refer to information that had been independently tested or verified. He also admitted that he used the term “audited” to refer to financial information provided annually to the SEC by Success Trade, the brokerage firm. That financial information did not disclose the financial condition of the Parent Company that had issued the notes, and thus could never have been sufficient disclosure to note investors. Ahmed admitted that the Parent Company that issued the notes had never had audited financial statements.²³⁴

The Hearing Panel finds that Ahmed’s confusing use of the term “audited” was a purposeful attempt to mislead investors. He used the term to make it appear that the financial information he provided in connection with the offering was more complete and reliable than it actually was. It is not credible that a college graduate with a business degree who has been in the securities industry for over twenty years could misunderstand and accidentally misuse the term “audited” in the way that Ahmed claimed.

Third, Ahmed sometimes testified that he was uncertain or confused when it was plain that he was only desperate to deny what the evidence showed. For example, Ahmed expressed uncertainty as to the capacity in which Jade personnel were acting when they sold Parent Company notes. He asserted at the hearing that they may have been acting as registered investment advisers and not as registered representatives of Success Trade. He testified that he did not know in which capacity they were acting when they sold the notes.²³⁵ This testimony

²³⁴ Hearing Tr. (Ahmed) 531-34.

²³⁵ Hearing Tr. (Ahmed) 517-18, 1415-16.

was not credible, given that Jinesh Brahmhatt, Aulakh, and other Jade personnel had registered with Success Trade and the files for note investors were kept at Success Trade's headquarters. Moreover, Ahmed's purported uncertainty was impeached at the hearing with the February 2013 letter sent to the state securities regulators, which expressly represented that Success Trade, not Jade, offered and sold the notes.²³⁶

Fourth, there was evidence that Success Trade and Jade personnel made efforts to hide their activities in connection with the Parent Company notes from FINRA regulatory oversight. A set of emails between Success Trade and Jade personnel implemented a plan to use personal emails rather than business emails in the future.²³⁷ One email of a Success Trade employee said that she would be using her personal email address "to send PPMs and other confidential information pertaining to Jade client investments."²³⁸ Another email between Success Trade and Jade personnel specifically instructed that any future emails to Ahmed be sent to his personal email because "[w]e need to keep these out of the eyes of FINRA."²³⁹ One of the emails attributed the plan to start using personal email to Ahmed and Aulakh.²⁴⁰

Ahmed was not listed as a sender or recipient of the email initiating the plan to conceal information from regulatory oversight. However, when viewed in conjunction with other email correspondence implementing the plan to conceal information relating to the offering, and in light of the small number of people employed by Jade and Ahmed, we do not believe that these actions were undertaken without Ahmed's knowledge. That belief is bolstered by the reasonable

²³⁶ Hearing Tr. (Ahmed) 518-22; CX-334.

²³⁷ Hearing Tr. (Morris) 164-67; CX-285 – CX-287.

²³⁸ Hearing Tr. (Morris) 167; CX-287.

²³⁹ Hearing Tr. (Morris) 164; CX-286.

²⁴⁰ Hearing Tr. (Morris) 165-66; CX-285.

inference that Jade personnel would not want to do anything relating to the note offering without Ahmed's approval because that could threaten the lifeline he provided Jade by funding its payroll. Moreover, no plan to route future communications about the note offering through backdoor communications outside regulatory oversight would work if Ahmed did not know about.

VIII. CONCLUSIONS OF LAW

A. Securities Fraud: First Cause Of Action

(1) Applicable Law

Section 10(b) of the Exchange Act broadly proscribes securities fraud in violation of rules promulgated by the SEC, including Rule 10b-5. Section 10(b) provides, "It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails ... [t]o use or employ, in connection with the purchase or sale of any security ... any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors."²⁴¹

Rule 10b-5 makes it unlawful "To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading."²⁴² The First Cause Of Action also alleges violations of FINRA Rules 2020 and 2010, but, since the Hearing Panel finds that

²⁴¹ 15 U.S.C. § 78j.

²⁴² 17 C.F.R. § 240.15c3-1.

Respondents committed Rule 10b-5 fraud, those other Rules were also violated and need not be separately discussed here.²⁴³

An enforcement action for Rule 10b-5 securities fraud requires proof of the following: (i) a false statement or a misleading omission; (ii) of a material fact; (iii) made with the requisite scienter or state of mind; (iv) using the jurisdictional means; (v) in connection with the purchase or sale of a security.²⁴⁴

(2) Enforcement Proved That Respondents Committed Securities Fraud

Enforcement established the elements of securities fraud under Rule 10b-5.

²⁴³ FINRA Rule 2020 proscribes fraud in language similar to Section 10(b), stating: "No member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance." A violation of Section 10(b) is also a violation of FINRA Rule 2020. *See Dep't of Enforcement v. Thomas Weisel Partners, LLC*, No. 2008014621701, 2013 FINRA Discip. LEXIS 1, at *15 (NAC Feb. 15, 2013).

NASD Conduct Rule 2110 requires member firms and their associated persons to observe "high standards of commercial honor and just and equitable principles of trade." This Rule applies to all business-related conduct. *Dep't of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. Lexis 6, at *11-18 (NAC June 2, 2000); *Dep't of Enforcement v. Trende*, No. 2007008935010, 2011 FINRA Discip. LEXIS 54, *11 and nn.12 & 13 (OHO Oct. 4, 2011). It requires members of the securities industry not merely to conform to legal requirements but to conduct themselves with integrity, fairness, and honesty. *See, e.g., Heath v. SEC*, 586 F.3d 122, 131-139 (2d Cir. Nov. 2009).

The NAC quoted the SEC in describing NASD Rule 2110 "as an industry backstop for the representation, inherent in the relationship between a securities professional and a customer, that the customer will be dealt with fairly and in accordance with the standards of the profession." *Dep't of Enforcement v. Golonka*, No. 2009017439601, 2013 FINRA Discip. LEXIS 5, at *22 (NAC Mar. 4, 2013) (quoting *Dante J. DiFrancesco*, Exchange Act Rel. No. 66113, 2012 SEC LEXIS 54, at *17 (Jan. 6, 2012)).

It should be obvious that committing fraud and other violations of law and FINRA Rules is inconsistent with the high standards of ethical conduct required by Rule 2110. *Colonial Realty Corp. v. Bache & Co.*, 358 F.2d 178, 182 (2d Cir.), *cert. denied*, 385 U.S. 817 (1966).

²⁴⁴ *Gebhart v. SEC*, 595 F.3d 1034, 1040 and n.8 (9th Cir. 2010) (affirmed SEC decision in NASD (now FINRA) disciplinary case charging Rule 10b-5 fraud and distinguished enforcement action from private securities fraud action). *See also* cases discussing elements of a Rule 10b-5 SEC enforcement action: *SEC v. First Jersey Sec., Inc.*, 101 F.3d 1450, 1467 (2d Cir. 1996) (SEC must prove misrepresentation or omission, that was material, made with scienter, in connection with purchase or sale of securities, and involving interstate commerce); *SEC v. Familant*, 910 F.Supp. 2d 83, *92 (Dec. 19, 2012) (unlike a plaintiff in a private damages action, the SEC does not have to show in a civil enforcement suit that actual harm resulted); *SEC v. Woolf*, 835 F. Supp. 2d 111, 118 (E.D. Va. 2011) (in civil enforcement action SEC must prove false statement or omission of material fact with scienter in connection with purchase or sale of securities); *SEC v. PIMCO*, 341 F. Supp. 2d 454, 463-64 (S.D.N.Y. 2004) (same) (citing *SEC v. Monarch Funding Corp.*, 192 F.3d 295, 308 (2d Cir. 1999)).

First, as discussed at length above, Respondents made many false and misleading statements in offering and selling the Parent Company notes.

One of the most significant was the misrepresentation in the PPMs and Supplement that the bulk of the offering proceeds would be used for advertising and building the technical infrastructure to support and build the Issuer's businesses. Ahmed admitted that millions of dollars of the proceeds were used in other ways that were never disclosed in the offering documents. Money from new investors was used to pay interest to old investors. The proceeds also were used for the so-called "officer loans" to cover Ahmed's personal credit card bills and the like, and the payments to Jade for selling the notes. These other uses in fact directly contradicted representations in the offering documents that no officer and director – meaning Ahmed – would be compensated for his selling efforts, and that no one offering and selling the notes – meaning the sales persons employed by Jade but registered with Success Trade – would be compensated in connection with the sale of the notes.²⁴⁵

The offering documents also failed to disclose the true financial condition of the Parent Company issuing the notes. They revealed nothing about the Parent Company's money-losing history or current financial distress and increasing debt load. They did not disclose that Success Trade, the broker-dealer on which the Parent Company relied, had in recent times twice been sanctioned for net capital deficiencies, even though its minimum net capital was only \$5,000. The omission of this information enabled Ahmed to solicit investors based on his vision of the future, in which his business would be worth hundreds of millions of dollars, rather than the reality, in which his businesses were on the brink of failure.

²⁴⁵ See *SEC v. Small Business Capital Corp.*, 2013 U.S. Dist. LEXIS 116607, at *14-24 (N.D. Cal. Aug. 16, 2013) (summary judgment awarded to SEC on securities fraud claim, where defendant used funds for himself instead of disclosed purpose).

Furthermore, the PPMs falsely represented that the note offering was exempt from registration, that the notes were only being sold to accredited investors, and that the notes were being sold in \$100,000 increments. In fact, the notes were sold to anyone who could be persuaded to buy them in any amount they were willing to invest, and the documentation to establish their accredited status was falsified by Jade personnel. The offering was not exempt from registration.

Even the size of the offering was misrepresented as limited to \$5 to \$7.5 million, when, in fact, Respondents sold close to \$20 million in Parent Company notes. This enabled Respondents to conceal the Issuer's growing debt load and how millions of dollars were being channeled elsewhere than in building the Parent Company's businesses.²⁴⁶

The evidence also showed numerous examples of Ahmed's own false and misleading statements to investors, even apart from the PPMs and Supplement. In his efforts to persuade early investors to extend the terms of their notes or to convert to equity, he made false and misleading use of the BP valuation report, created the false impression that the Parent Company's stock was about to be listed on a European exchange, and gave the false impression that the Parent Company was about to buy an Australian company.²⁴⁷

²⁴⁶ The disclosure in the Supplement that the Parent Company had discretion to exceed the \$5 million limit without disclosure to investors did not reveal to investors that, in fact, the Parent Company had sold nearly four times that amount of notes, almost \$20 million. The disclosure of discretion to take an action does not disclose that the action has actually been taken. Indeed, it implies that the action has not been taken but might be in the future.

²⁴⁷ To the extent that Respondents argue that certain disclosures in the Supplement corrected any false or misleading statement in the PPMs, they are wrong. The disclosure that management had "discretion" to increase the size of the offering was not sufficient to disclose that the offering ballooned to four times the size that the PPMs said it was. The disclosure that the proceeds might be used for other purposes was not sufficient to inform investors that Ahmed was already using investor proceeds to pay his personal credit card bills. *See Deng v. 278 Gramercy Park Group, LLC*, 2014 U.S. Dist. LEXIS 74156, (S.D.N.Y. May 30, 2014) (disclosure in PPM for real estate project that manager had "complete discretion" on how to apply the net proceeds of an offering did not reveal that proceeds were used for non-project purposes).

Second, Respondents' false and misleading statements were material. The U.S. Supreme Court has established the standard for materiality. Materiality is an "objective" inquiry involving the significance of an omitted or misrepresented fact to a reasonable investor.²⁴⁸ "[T]o fulfill the materiality requirement there must be a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available."²⁴⁹ Lower courts have put the same test in other words, "Information is material if there is a 'substantial likelihood that a reasonable person would consider it important in deciding whether to buy or sell shares.'"²⁵⁰

Under this standard, Respondents' misrepresentations and misleading omissions were material. The offering documents represented that the proceeds of the offering were going to be used to build a business, thereby enabling the business to repay investors in the notes. It would have significantly altered the "total mix" of information if investors had been informed that large amounts of the funds were being used instead for other purposes, such as paying Ahmed's credit card bills.²⁵¹ Certainly, it would have been significant to investors if they had known that Respondents were operating as a Ponzi scheme, with money from new investors being used to pay the interest owed to earlier note purchasers. If they had known that, they would have

²⁴⁸ *TSC Indus., Inc. v. Northway, Inc.*, 426 U.S. 438, 445 (1976).

²⁴⁹ *Basic v. Levinson*, 485 U.S. 224, 231-32 (1988) (quoting *TSC Indus., Inc.*, 426 U.S. at 449). Materiality can be evaluated under this objective standard, considering how a reasonable investor would view the false statement or misleading omission, without testimony from any particular customer. *Dep't of Enforcement v. Scholander*, No. 2009019108901, 2013 FINRA Discip. LEXIS 37, at *64-65 and n.122 (OHO Aug. 16, 2013) *appeal docketed* (Aug. 30, 2013) (citing *RichMark Capital Corp.*, Exchange Act Rel. No. 48758, 2003 SEC LEXIS 2650, at *15 (Nov. 7, 2003)), *aff'd*, 86 F. App'x 744 (5th Cir. 2004).

²⁵⁰ *SEC v. Stratocomm Corp.*, 2014 U.S. Dist. LEXIS 20855, at *32 (N.D.N.Y. Feb. 19, 2014) (quoting *Azrielli v. Cohen Law Offices*, 21 F.3d 512, 518 (2d Cir. 1994)).

²⁵¹ *See, generally, SEC v. Bravata*, 2014 U.S. Dist. LEXIS 28496, at *7-19, 47-50 (E.D. Mich. Mar. 6, 2014) (defendants falsely represented that proceeds would be used to acquire real estate, when in fact a large amount of funds was used for personal purchases and "loans" that were not repaid).

realized that the money was not being used to build a business and that it was unlikely that they would be fully repaid.

Similarly, a reasonable investor would want to know the financial condition of the issuer in order to evaluate the likelihood the issuer will be able to perform its obligations under the notes being sold. Respondents failed to give the note investors important facts relating to the Parent Company's money-losing history, its current financial distress, and its increasing debt load. They also failed to disclose the net capital deficiencies of Success Trade, the subsidiary on which the Parent Company depended. The omitted facts allowed Ahmed continually to misrepresent the Parent Company's business prospects in a falsely glowing and positive light. Investors would have had an entirely different picture of the investment if they had known the omitted information.

Respondents' false and misleading statements regarding the exemption from registration, the size of the offering, and the accredited status of the investors also were material. They contributed to the overall false impression that the Parent Company was thriving and worthy of investment, and they hid the Parent Company's large and continually growing debt burden.

Ahmed was the person in control of Success Trade, the disclosures in the offering materials, and the manner in which potential investors were solicited to buy Parent Company notes. He was a "maker" of materially false and misleading statements contained in the PPMs and Supplement.²⁵² Ahmed also personally made false and misleading statements regarding the BP valuation report, the potential listing of Parent Company stock on a European exchange, and the purchase of an Australian company, which were all designed to hide the downward spiral of

²⁵² *Stratocomm Corp.*, 2014 U.S. Dist. LEXIS 20855, at *33-35 (person who drafted, authorized, and disseminated press releases was the "maker" of the false and misleading statements contained in them).

his businesses. Success Trade, through Ahmed and its other registered representatives, made false and misleading statements.

The cumulative effect of Respondents' false and misleading statements was to persuade investors to invest more, extend the term of their notes, and to convert to equity. Respondents created a completely false picture of the investment. If investors had known the truth, they would have evaluated the investment differently.

Third, the Hearing Panel concludes that Respondents had the required scienter. The Hearing Panel believes that Ahmed acted knowingly and intentionally when he misrepresented how the proceeds of the note offering were being used, the financial condition of the Parent Company, the size of the offering, the accredited status of the investors, and the units of notes for sale. The Hearing Panel also believes Ahmed acted knowingly when he misleadingly used the BP evaluation in his efforts to persuade note investors to convert to equity, falsely represented that he was close to listing Parent Company stock on a foreign exchange, and falsely represented that he was about to purchase the Australian company.²⁵³

Ahmed deliberately employed half-truths and ambiguities in the later PPMs and Supplement. The disclosures in the Supplement, for example, told investors that the Parent Company owed money to Khokhar, but it disclosed only the principal amount and the later

²⁵³ Recklessness also satisfies scienter for Rule 10b-5 securities fraud. See *SEC v. U.S. Envtl., Inc.*, 155 F.3d 107, 111 (2d Cir. 1998) (collecting cases). Recklessness has been defined as conduct that is highly unreasonable and that represents an extreme departure from the standards of ordinary care. See *SEC v. McNulty*, 137 F.3d 732, 741 (2d Cir. 1998). The classic definition has been recently reiterated in *Small Business Capital Corp.*, 2013 U.S. Dist. LEXIS 116607, at *31 (N.D. Cal. 2013): "Reckless conduct is conduct that consists of a highly unreasonable act, or omission, that is an 'extreme departure from the standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.'" (quoting from *SEC v. Dain Rauscher*, 254 F.3d 852, 1569 (9th Cir. 2001) and *Hollinger v. Titan Capital Corp.*, 914 F.2d 1564, 1569 (9th Cir. 1990)).

Even if Respondents did not act knowingly and intentionally, they acted recklessly. Accordingly, the Hearing Panel finds that Respondents had scienter on that alternative basis as well.

renegotiated interest rate of 15%. Half-truths can be just as fraudulent as outright falsehoods.²⁵⁴

Ahmed's scienter is attributable to Success Trade.²⁵⁵

Fourth, Respondents used the requisite jurisdictional means by mailing materials to investors in connection with the offer and communicating by email with investors.

Fifth, Respondents' activities occurred in connection with the purchase and sale of securities. There is no dispute that the notes were securities.

The Hearing Panel concludes that the misconduct was an egregious violation. It involves multiple intentional false and misleading statements over an extended period of four years. Ahmed offers no colorable innocent explanation for the multiple deceptions Respondents practiced on the note investors.

B. Unregistered Securities: Second Cause Of Action

(1) Applicable Law

Section 5(a) of the Securities Act prohibits the sale of any securities, in interstate commerce, unless a registration statement is in effect or there is an applicable exemption from the registration requirements.²⁵⁶ Section 5(c) of the Securities Act prohibits the offer of any securities, unless a registration statement has been filed as to such securities or an exemption is available.²⁵⁷ "The registration requirements are the heart of" the Securities Act.²⁵⁸ Their purpose is to "protect investors by promoting full disclosure of information thought necessary to

²⁵⁴ *Stratocomm Corp.*, 2014 U.S. Dist LEXIS 20855, at *41 (N.D. N.Y. Feb. 19, 2014).

²⁵⁵ *Stratocomm Corp.*, 2014 U.S. Dist LEXIS 20855, at *38 (N.D. N.Y. Feb. 19, 2014) (scienter of company officer attributed to company where officer acting within apparent authority) (citing *Adams v. Kinder-Morgan, Inc.*, 340 F.3d 1083, 1106-07 (10th Cir. 2003)).

²⁵⁶ 15 U.S.C. § 77e (a).

²⁵⁷ 15 U.S.C. § 77e (c).

²⁵⁸ *Pinter v. Dahl*, 486 U.S. 622, 638 and n.14 (1988).

informed investment decisions.”²⁵⁹ Section 5 imposes strict liability on those who sell unregistered securities, regardless of any degree of fault, negligence, or intent on the seller’s part.²⁶⁰

A *prima facie* case for violation of Securities Act Section 5 is established upon a showing that (1) no registration statement was in effect or filed as to the securities; (2) a person, directly or indirectly, sold or offered to sell the securities; and (3) the sale or offer to sell was made through the use of interstate facilities or mails. Scienter—*i.e.*, an intent to deceive—is not a requirement.²⁶¹

Exemptions from the registration requirements are affirmative defenses that must be established by the person claiming the exemption.²⁶² Registration exemptions “are construed strictly to promote full disclosure of information for the protection of the investing public.”²⁶³

Evidence in support of an exemption must be explicit, exact, and not built on conclusory

²⁵⁹ *Midas Securities, LLC*, Exchange Act Rel. No. 66200, 2012 SEC LEXIS 199 (Jan. 20, 2012 (citing *SEC v. Ralston Purina*, 346 U.S. 119, 124 (1953) and *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 186 (1963)) “Registration is the central mechanism the framers of the securities acts chose for the protection of investors.” *Woolf v. S.D. Cohn & Co.*, 515 F.2d 591, 605 and n.6 (5th Cir. 1975) (Wisdom, J.), *vacated and remanded on other grounds*, 426 U.S. 944 (1976).

²⁶⁰ *SEC v. Calvo*, 378 F.3d 1211, 1215 (11th Cir. 2004); *SEC v. Cavanagh*, 445 F.3d 105, 115 (2d Cir. 2006); *Stratocomm Corp.*, 2014 U.S. Dist LEXIS 20855, at *51 (N.D. N.Y. Feb. 19, 2014).

²⁶¹ *Midas Sec.*, 2012 SEC LEXIS 199, *27 and n.34.

²⁶² See, e.g., *Ralston Purina Co.*, 346 U.S. at 126 (“Keeping in mind the broadly remedial purposes of federal securities legislation, imposition of the burden of proof on an issuer who would plead the exemption seems to us fair and reasonable.”); *Zacharias v. SEC*, 569 F.3d 458, 464 (D.C. Cir. 2009) (citing *Ralston Purina*, 346 U.S. at 126), *aff’g in relevant part, John A. Carley*, Exchange Act Rel. No. 57246 (2008), 92 SEC Docket 1693; *Swenson v. Engelstad*, 626 F.2d 421, 425 (5th Cir. 1980); *Rodney R. Schoemann*, Securities Act Rel. No. 9076, 2009 SEC LEXIS 3939 (2009), *aff’d*, 398 F. App’x 603 (D.C. Cir. 2010) (unpublished).

The SEC has made plain that once Enforcement has established a *prima facie* case of selling unregistered securities, the burden shifts to the respondent in a disciplinary proceeding to establish that an exemption applied. See *ACAP Financial, Inc.*, Exchange Act Rel. No. 70046, 2013 SEC LEXIS 2156 (July 26, 2013).

²⁶³ *Cavanagh*, 445 F.3d at 115; see also *SEC v. Murphy*, 626 F.2d 633, 641 (9th Cir. 1980) (same).

statements.²⁶⁴ The SEC has stated that a broker “ha[s] a responsibility to be aware of the requirements necessary to establish an exemption from the registration requirements of the Securities Act and should be reasonably certain such an exemption is available.”²⁶⁵

The offer and sale of unregistered securities without an exemption is inconsistent with the “high standards of commercial honor and just and equitable principles of trade” required by FINRA Rule 2010.²⁶⁶

(2) Respondents Sold Unregistered Securities That Were Not Entitled To An Exemption

Enforcement proved the elements of a registration violation.

First, no registration was in effect. Respondents intended the offering to be a private placement and created the PPMs to facilitate a private placement. They did not seek to register the securities. Instead, they filed with the SEC a document claiming the securities were exempt from registration under SEC Rule 505 of Regulation D.

Second, Respondents, Ahmed and the broker-dealer Firm, Success Trade, offered and sold the unregistered securities. The Hearing Panel has found that Ahmed was in control of what was disclosed in the offering and was personally involved in soliciting investors. The Panel also has found that representatives registered with Success Trade, the broker-dealer, solicited investors. Furthermore, investor records for the note purchasers were maintained by the broker-dealer Firm.

Third, the requisite jurisdictional means were used. Respondents sent emails to prospective investors and mailed materials to them as well.

²⁶⁴ *Ronald G. Sorrell*, 1981 SEC LEXIS 1467, at *5 n.8 (1981) (quoting *Lively v. Hirschfeld*, 440 F.2d 631, 633 (10th Cir. 1971)), *aff’d*, 679 F.2d 1323 (9th Cir. 1982).

²⁶⁵ *Midas Sec.*, 2012 SEC LEXIS 199, at *33 and n.43.

²⁶⁶ *Midas Sec.*, 2012 SEC LEXIS 199, at 46 n.63; *Sorrell*, 679 F.2d at 1326.

There is no dispute that the Rule 505 exemption is inapplicable. Respondents concede that it did not apply.²⁶⁷ That exemption applies only if the offering has no more than 35 investors, does not exceed \$5 million, and extends for no more than twelve months. Respondents' note offering had more than 35 investors, exceeded \$5 million, and continued longer than 12 months.

Respondents claim, however, that SEC Rule 506 applies. They are wrong. SEC Rule 506 permits the sale of unregistered securities to an unlimited number of "accredited investors." In addition, it permits sale to a limited number of "sophisticated" investors. Respondents sold notes to persons who were neither "accredited investors" nor "sophisticated" investors.

The term "accredited investor" is defined in SEC Rule 501(a). As relevant here, an "accredited investor" includes a person who has had income in excess of \$200,000 in each of the two most recent years and who expects to have at least that much income in the current year. It also includes a person whose current net worth (either individually or jointly with a spouse) is at least \$1 million. As discussed above, registered representatives with Success Trade entered false information about many of the investors' net worth and recent income history in order to make it appear that they qualified as "accredited investors." The registered representatives did so on the theory that anticipated future income could be taken into consideration. Nothing in the definition of "accredited investor" supports that theory.

Nor does the record support the conclusion that the investors were "sophisticated." SEC Rule 501(e) states that in calculating the number of purchasers under the exemption contained in SEC Rule 506 a purchaser who is not an "accredited investor" should have sufficient knowledge and experience in financial and business matters to make him or her capable of evaluating the

²⁶⁷ Resp. PH Br. 19-20.

merits and risks of the prospective investment. Such persons qualify as “sophisticated.” In this case, however, many of the young athletes were not able to evaluate the merits and risks of the Parent Company notes and were not “sophisticated” for purposes of applying the exemption.

Consequently, Respondents sold the Parent Company notes to numerous persons who were neither “accredited investors” nor financially “sophisticated.” The securities were not exempt from registration under SEC Rule 506.²⁶⁸

The Hearing Panel concludes that Respondents’ sale of non-exempt unregistered securities was an egregious violation of FINRA Rule 2010. Such conduct was unethical and inconsistent with the high standard of commercial honor required by the Rule.²⁶⁹

IX. SANCTIONS

In considering the appropriate sanction for a violation, adjudicators in FINRA disciplinary proceedings look to FINRA’s Sanction Guidelines. The Sanction Guidelines contain a range of sanctions for particular violations, depending on the circumstances. They also contain General Principles, applicable in all cases, and overarching Principal Considerations.²⁷⁰

In this case, all factors weigh in favor of the most stringent sanctions. Consequently, the Hearing Panel concludes that expulsion of Success Trade and an order barring Ahmed from

²⁶⁸ SEC Rules 505 and 506 are “safe harbor” exemptions under Regulation D. SEC Rule 502 of Regulation D establishes an overarching requirement that any non-accredited investors in an exempt offering shall receive financial information similar to the financial information they would receive in connection with a registered public offering. As discussed above, in this case many investors were non-accredited. Therefore, they were entitled to the mandatory financial information. Respondents failed to provide such financial information. For this reason also, the offering was in violation of the requirements relating to registration and exemptions.

²⁶⁹ See *Midas Sec.*, 2012 SEC LEXIS 199, at *46 n.63 (“A violation of Securities Act Section 5 also violates NASD Rule 2110.” (citing *Sorrell v. SEC*, 679 F.2d 1323, 1326 (9th Cir. 1982))); *Kunz v. SEC*, 64 F. App’x 659, 663-64, 668 (10th Cir. 2003) (noting SEC conclusion that respondent violated Conduct Rule 2110 by failing to comply with Securities Act registration requirements and affirming that determination).

²⁷⁰ FINRA Sanction Guidelines (2011) (“Sanction Guidelines”), available at www.finra.org/oho (then follow “Enforcement” hyperlink to “Sanction Guidelines”).

association with any FINRA member firm in any capacity best serve the remedial purposes of disciplinary oversight. The Hearing Panel further concludes that restitution is appropriate to prevent unjust enrichment, and orders that it be used to compensate investors, to the extent possible.

A. General Considerations

The regulatory mission of FINRA is to protect investors and strengthen market integrity. To that end, FINRA imposes sanctions that are remedial in nature. Those sanctions are designed to deter future misconduct – not only by the particular respondents but also by others – and to improve overall business standards in the securities industry. All of this is for the protection of investors and to encourage public confidence in the financial markets.²⁷¹

(1) Likelihood Of Compliance In The Future

With FINRA's regulatory mission in mind, in crafting the appropriate sanctions the Hearing Panel considers Respondents' likely conduct in the future. There are multiple reasons that the Hearing Panel believes that these Respondents cannot be relied upon in the future to conform their conduct to the securities laws and FINRA Rules.

First, Respondents have a disciplinary history, and the Sanction Guidelines expressly instruct adjudicators to consider recidivism and disciplinary history when considering appropriate sanctions. In particular, the Sanction Guidelines advise adjudicators to consider imposing more severe sanctions when a respondent's disciplinary history includes past misconduct that evidences disregard for regulatory requirements, investor protection, or

²⁷¹ Sanction Guidelines at 1, Overview; Sanction Guidelines at p. 2, General Principle 1.

commercial integrity. The Guidelines also advise that repeated acts of misconduct warrant increasingly severe sanctions.²⁷²

In this case, Respondents' disciplinary history evidences disregard for regulatory requirements, investor protection, and commercial integrity. The two earlier proceedings both involved charges of a net capital deficiency, with deficiencies covering an extended period of time (roughly ten months in the first proceeding and three months in the second proceeding). The repetition of the same kind of violation signifies that the initial disciplinary sanctions, which were modest, were insufficient to deter a repetition of the misconduct. Furthermore, the second proceeding involved additional charges, indicating a general laxity in compliance. Among other things, the second proceeding charged failure to report customer complaints, failure to file an application for change of ownership or control, and failure to establish, maintain, and enforce an adequate supervisory system.²⁷³

Second, there was evidence that Ahmed delayed producing documents requested by FINRA staff pursuant to FINRA Rule 8210 until after the Complaint was filed, the TCDO was issued, and pre-hearing activities were underway. In addition, he still made only a partial production of personal emails. Enforcement did not charge the delay or the partial production as a violation of FINRA Rule 8210, but the evidence relating to this recalcitrance bears on the sanctions and the likelihood Respondents would conform their conduct in the future to the applicable law and regulatory requirements.²⁷⁴ The Hearing Panel believes that this conduct displays disregard for compliance responsibilities, and the Sanction Guidelines indicate that an

²⁷² Sanction Guidelines, at p. 2, General Principle 2; Sanction Guidelines, at p. 6, Principal Consideration 1.

²⁷³ Hearing Tr. (Morris) 76-83; CX-33, CX-36 – CX-37.

²⁷⁴ Hearing Tr. (Morris) 168-79; CX-293 – CX-303. Respondent produced some of the requested material in response to the staff's multiple requests. Hearing Tr. (discussion by counsel) 180-82, Hearing Tr. (Morris) 322-27. However, he produced no more than a handful of his personal emails, and they were not produced until the hearing.

attempt to hinder a FINRA investigation by concealing information may be an aggravating factor when considering sanctions.²⁷⁵

Third, Respondents disregarded a clear, express instruction by the D.C. Securities Regulator to cease and desist offering the securities. Ahmed excused this action by saying he disputed the appropriateness of the instruction. In other words, Respondents took the position that they would not obey a regulatory instruction if they disagreed with it. There could be no more clear demonstration of disregard for regulatory authority. Respondents continued to engage in the misconduct of selling unregistered securities without an appropriate exemption even after having been told by another regulator to stop. The Sanction Guidelines indicate that such a failure to comply with another regulator's instruction may be an aggravating factor for purposes of sanctions.²⁷⁶

Fourth, the Hearing Panel has found that Ahmed's testimony in this proceeding was not credible. That a regulated person would make statements in a disciplinary proceeding under oath that appear to be distortions of the facts, if not pure fabrications, destroys any confidence one might have that he could conform his conduct in the future to the applicable laws and regulations.

(2) Aggravating Factors

In determining the sanctions appropriate here, the Hearing Panel also considers aggravating factors relating to the violations. Those aggravating factors weigh in favor of stringent sanctions. Respondents engaged in numerous acts of misconduct over an extended

²⁷⁵ Sanction Guidelines at p. 7, Principal Consideration 12.

²⁷⁶ Sanction Guidelines at p. 7, Principal Consideration 15.

period of time, four years.²⁷⁷ They attempted to deceive investors,²⁷⁸ and those investors were not sophisticated.²⁷⁹ Investors were injured by the misconduct to a substantial degree, suffering losses of more than \$13 million.²⁸⁰ Respondents engaged in the misconduct intentionally and willfully.²⁸¹ Respondents' potential gain from the misconduct here was large and was absolutely necessary for the survival of Ahmed's businesses.²⁸²

B. Specific Considerations

The specific recommendations in the Sanctions Guidelines for securities fraud and sales of unregistered securities confirm that expulsion and a bar are appropriate sanctions here.

(1) Securities Fraud Violation

The Sanction Guidelines set forth a range of sanctions for misconduct involving misrepresentations or omissions of material fact. If the misconduct is intentional or reckless, as it is here, an individual may be suspended in any or all capacities, and a firm may be suspended with respect to any or all activities or functions, for anywhere between ten business days and two years. In egregious cases, it may be appropriate to bar an individual and expel a firm.²⁸³

The Hearing Panel has found that this is an egregious case. Accordingly, it is appropriate to bar Ahmed and expel his Firm.

²⁷⁷ Sanction Guidelines at p. 6, Principal Considerations 8 and 9.

²⁷⁸ Sanction Guidelines at p. 6, Principal Consideration 10.

²⁷⁹ Sanction Guidelines at p. 7, Principal Consideration 19.

²⁸⁰ Sanction Guidelines at p. 6, Principal Consideration 11.

²⁸¹ Sanction Guidelines at p. 7, Principal Consideration 13.

²⁸² Sanction Guidelines at p. 7, Principal Consideration 17.

²⁸³ Sanction Guidelines at p. 88.

(2) Unregistered Securities Violation

The Sanction Guidelines relating to sales of unregistered securities provide for stringent sanctions in egregious cases like this one. An individual may be suspended in any or all capacities for up to two years or barred completely. A firm may be suspended with respect to any or all activities or functions for up to thirty business days or until procedural deficiencies are remedied. Adjudicators may impose a fine of \$2,500 to \$50,000 or require disgorgement.²⁸⁴

Where a respondent attempted to comply with an exemption from the registration requirement, it may be mitigating.²⁸⁵ Respondents here may believe that this mitigating factor applies to them because they filed with the SEC a form asserting that the “safe harbor” under SEC Rule 505 applied to them. In light of the repeated assertion in the offering documents that another, different exemption applied to the offering of Parent Company notes, and in light of the clear inapplicability of either exemption, the Hearing Panel declines to consider the SEC filing as a mitigating factor. Rather, the Hearing Panel concludes that Respondents misled investors regarding the exempt status of the offering – and did so recklessly (at a minimum) or (more likely) knowingly.

C. Restitution

The Sanction Guidelines authorize adjudicators to order restitution when an identifiable person has suffered a quantifiable loss proximately caused by a respondent’s misconduct. The Sanction Guidelines direct adjudicators to calculate orders of restitution based on the actual amount of the loss sustained by a person, as demonstrated by the evidence.²⁸⁶

²⁸⁴ Sanction Guidelines at p. 24 and n.1.

²⁸⁵ Sanctions Guidelines at p. 24.

²⁸⁶ Sanction Guidelines at p. 4, General Principle 5.

In this case, Enforcement calculated the total amount of restitution due to each defrauded investor. It introduced into evidence a summary chart reflecting the calculation for each investor, along with backup documentation for the calculations. If a single investor made multiple investments, then each investment was shown in the backup documentation separately. The total amount of restitution, including pre-judgment interest, is \$13,706,288.28.²⁸⁷ The Hearing Panel concludes that this entire loss was proximately caused by Respondents' misconduct.

X. ORDER

For the violations found as charged in the First Cause of Action (securities fraud in willful violation of Section 10(b) of the Exchange Act, SEC Rule 10b-5, and FINRA Rules 2020 and 2010), Respondent Success Trade is expelled from FINRA and Respondent Ahmed is barred from association with any FINRA member firm in any capacity. They are also jointly and severally ordered to pay restitution in a total amount of \$13,706,288.28, to be distributed to investors in accordance with the attached Restitution Addendum.

For the violations found as charged in the Second Cause of Action (selling unregistered securities that were not exempt from registration in contravention of Section 5 of the Securities Act in violation of FINRA Rule 2010), it would be appropriate to suspend Respondent Success Trade from FINRA membership for one year, suspend Respondent Ahmed from association with

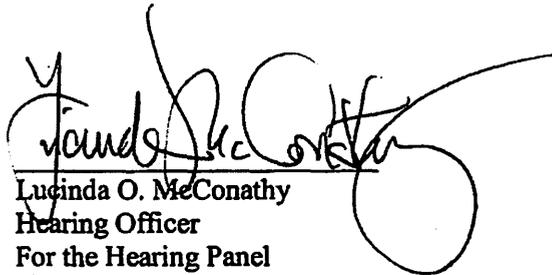
²⁸⁷ CX-2; Hearing Tr. (Morris) 396-401, 494-96. The calculations were made on the basis of the principal invested by each investor, minus any principal and interest payments that the investor received on the investment. Prejudgment interest was figured from the initial date of the investment, with the interest rate changing as the applicable IRS rate changed during the period. Prejudgment interest is included in the amount of restitution calculated for each investor. CX-2.

A Restitution Addendum is attached to this Decision, based on the record evidence of investor losses. The Restitution Addendum lists each individual investor, identified by initials to protect the investor's privacy. For each investor, the Restitution Addendum shows the total amount of restitution to be paid to that investor. The investors are fully identified in a confidential Restitution Addendum, which is served only on the parties.

any FINRA member firm in any capacity for one year, and order Respondents to pay restitution and costs. However, these sanctions are not imposed in light of the sanctions ordered in connection with the First Cause of Action.

If this decision becomes FINRA's final disciplinary action, the expulsion and bar will take effect immediately, and the restitution shall be due in full on September 11, 2014.²⁸⁸

In addition, Respondent is ordered to pay the costs of the hearing in the amount of \$12,221.52, which includes a \$750 administrative fee and the cost of the transcript.²⁸⁹ The costs shall be payable on a date set by FINRA, but not less than 30 days after this decision becomes FINRA's final disciplinary action in this matter.



Lucinda O. McConathy
Hearing Officer
For the Hearing Panel

Copies to:

Success Trade Securities, Inc. (via first-class mail and overnight courier)
Fuad Ahmed (via first-class mail and electronic mail)
William C. Saacke, Esq. (via first-class and electronic mail)
Jennifer L. Crawford, Esq. (via first-class and electronic mail)
Samuel L. Israel, Esq. (via electronic mail)
Michael A. Gross, Esq. (via electronic mail)
Jeffrey D. Pariser, Esq. (via electronic mail)

²⁸⁸ Ahmed shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. If an investor cannot be located, unpaid restitution owed to such investor shall be paid to the appropriate escheat, unclaimed-property, or abandoned-property fund for the state of the investor's last known address. Such proof shall be submitted by email to EnforcementNotice@FINRA.org. This proof shall be provided to FINRA no later than October 31, 2014.

²⁸⁹ The Hearing Panel has considered and rejects without discussion any other arguments made by the Parties that are inconsistent with this decision.

RESTITUTION ADDENDUM

Department of Enforcement v. Success Trade Securities, Inc. and Fuad Ahmed
Disciplinary Proceeding No. 2012034211301

Investor	Restitution Amount
AO	\$577,523.94
AB1	\$326,273.39
AB2	\$481,665.64
AD	\$411,253.85
AS	\$30,585.64
AB3	\$116,856.66
ALP	\$588,577.54
BH	\$50,484.39
BK	\$96,920.36
BF	\$9,323.20
CD	\$163,360.57
CB	\$89,341.48
CP	\$369,865.42
DB	\$155,921.82
DM	\$166,261.33
DWW	\$231,070.30
DJG	\$524,327.64
DM	\$421,261.88
DS	\$49,614.60
DF	\$72,848.64
FE	\$274,748.69
GN	\$138,238.25
GV	\$140,630.15
GW	\$90,564.27
IR	\$49,614.60
JAT	\$75,507.78
JT	\$14,233.64
JO	\$231,322.38
JA	\$167,089.29
JPB	\$35,664.40
JH	\$579,901.78
JS	\$50,018.06

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KR	\$87,359.00
KB	\$99,388.47
KM	\$75,703.94
LE	\$199,373.85
LD	\$236,607.68
LJ	\$22,871.63
NA	\$51,231.58
NC	\$49,455.31
NB	\$259,238.13
OF	\$189,802.29
PS	\$74,488.44
PB	\$477,225.81
RA	\$22,973.84
RB1	\$307,380.45
RC	\$92,001.98
RB2	\$99,904.48
RQ	\$280,922.64
RW	\$189,303.14
SY	\$291,027.18
SM	\$18,521.60
SB	\$95,011.97
TJ1	\$209,964.12
TJ2	\$331,009.02
TL	\$82,703.28
VD	\$846,144.54
VC	\$191,050.32
WD	\$2,044,752.01
TOTAL RESTITUTION	\$13,706,288.28

(ii)

[Published]

EXHIBIT 2

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. 3-16755
SUCCESS TRADE, INC.,)
SUCCESS TRADE SECURITIES, INC.,)
AND FUAD AHMED)

ADMINISTRATIVE PROCEEDINGS - HEARING

PAGES: 1 through 281
PLACE: Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
DATE: Wednesday, January 20, 2016

The above-entitled matter came on for hearing,
pursuant to notice, at 9:31 a.m.

BEFORE:

JASON S. PATIL, ADMINISTRATIVE LAW JUDGE

-
- Diversified Reporting Services, Inc.

(202) 467-9200

1 of their investments and convert their notes into
 2 equity.
 3 Mr. Ahmed also gave investors the false
 4 impression that STI's common stock would be listed
 5 publicly on a European exchange no later than June
 6 2013. Yet he knew or was reckless in not knowing
 7 that this was impossible because STI had not
 8 undertaken the necessary steps for the company to be
 9 listed in Europe.
 10 Mr. Ahmed further misrepresented to
 11 investors that STI would acquire an Australian
 12 online broker-dealer by no later than April 2013.
 13 Here too, however, he either knew or was reckless in
 14 not knowing that STI lacked the funds to make the
 15 purchase and had no reasonable expectation of
 16 obtaining the money.
 17 Now, the purpose of this remedies
 18 proceeding is for the Court to assess the Steadman
 19 factors for determining the nature and extent of Mr.
 20 Ahmed's bars. As the Court knows, the Steadman
 21 factors look at the egregiousness of the
 22 Respondent's conduct, the isolated or repeated
 23 nature of the conduct, the degree of scienter
 24 involved, the Respondent's recognition of the
 25 wrongful nature of his conduct, the sincerity of his

1 assurances against future violations and the
 2 likelihood that his occupation will present
 3 opportunities for future violations.
 4 In the present case as we've just
 5 explained, Mr. Ahmed's securities violations were
 6 egregious. They involved repeated knowing material
 7 misrepresentations and omissions that occurred over
 8 a period of at least four years and resulted in
 9 substantial financial loss to scores of investors.
 10 Mr. Ahmed's fraud also was complex because it
 11 involved multiple industry participants,
 12 sophisticated offering materials and the creation
 13 and dissemination of a misleading valuation.
 14 As the OIP states, Mr. Ahmed acted
 15 intentionally in performing his fraudulent acts. In
 16 addition, he abused his position as an officer or
 17 director of his companies, directing those companies
 18 to participate in this fraud and authorizing knowing
 19 misrepresentations and omissions by the companies
 20 and their representatives. As we noted before, for
 21 the purposes of this hearing, the facts and findings
 22 relating to Mr. Ahmed's fraud and his other
 23 securities law violations are uncontested and deemed
 24 true.
 25 Mr. Ahmed's conduct since this proceeding

1 was instituted, as evidenced by documents he
 2 submitted to this Court and to the Commission in
 3 related proceedings in which he repeatedly denies
 4 and deflects responsibility for the same misconduct
 5 included in the OIP, makes clear that he does not
 6 recognize the wrongful nature of his misconduct. The
 7 Division expects that Mr. Ahmed will not offer any
 8 credible assurances in this hearing that he
 9 recognizes the wrongful nature of his misconduct.
 10 Mr. Ahmed has indicated in communications
 11 with the Division that he desires and intends to
 12 work in the securities industry in the future if
 13 given the opportunity by this Court and the
 14 Commission. And of course he would want to do so.
 15 It was very lucrative to him. The Division submits,
 16 however, that if Mr. Ahmed is permitted to do so, he
 17 unquestionably will have the opportunity to violate
 18 the securities laws as he has done here, including
 19 by selling unregistered securities and defrauding
 20 investors.
 21 Moreover, the Division expects that Mr.
 22 Ahmed will not offer any sincere assurances in this
 23 hearing that he will not violate the securities laws
 24 again if he is not permanently barred by the Court
 25 and the Commission. Accordingly, the Division

1 respectfully requests that after this hearing, this
 2 Court permanently bar Mr. Ahmed from working in the
 3 securities industry and impose permanent collateral
 4 bars against him serving as an officer or director
 5 of a public company and participating in penny stock
 6 offerings.
 7 Thank you, Your Honor.
 8 JUDGE PATIL: Thank you. Mr. Saacke,
 9 would you like to make a statement now or reserve?
 10 MR. SAACKE: I'd like to make one now.
 11 JUDGE PATIL: Please go ahead.
 12 MR. SAACKE: Thank you. At this hearing,
 13 we're going to hear testimony from Fuad Ahmed, from
 14 Riaz Khokhar, who, by the way, was the second
 15 largest investor in Success Trade Inc., the offering
 16 at issue, and Bill Davis, who, by the way, was the
 17 largest investor in the offering.
 18 Mr. Ahmed, he's going to talk about what
 19 his goals were for STI. He has stipulated to the
 20 facts underlying this proceeding, so we're not here
 21 to dispute those. But he is going to present what
 22 he was attempting to do, his goals for STI. He is
 23 going to admit that he made mistakes. He signed off
 24 on the underlying document that led to this
 25 proceeding. So there is no dispute that he made

1 mistakes.

2 He is going to talk about what he would

3 have done differently. He's definitely learned, and

4 you will definitely understand that from his

5 testimony, that he's learned that he should have

6 done things differently. And he's going to talk

7 about the future and what his plans are to pay back

8 investors because he has stipulated that he will, in

9 the order in this case, pay back the investors. And

10 to do that, he believes in their best interest and

11 obviously in his so that he can pay them off, he

12 should be entitled to be an officer and a director

13 of a public company if the opportunity presents

14 itself.

15 Riaz Khokhar, when he testifies, will tell

16 you who he is and he will tell you all of his

17 dealings of Mr. Ahmed leading up until and to the

18 end of Success Trade, Inc. and when it all fell

19 apart. He will tell you that he trusts Mr. Ahmed,

20 that he finds him to be a trustworthy person; that

21 he believes that it is proper to allow Mr. Ahmed to

22 continue working in the industry as an officer and a

23 director.

24 Bill Davis, again, the largest investor in

25 Success Trade, will say exactly the same thing. It's

1 interesting to note that not a single investor is

2 going to testify here against Mr. Ahmed. I know

3 that we stipulated to the facts, but there is not a

4 single investor out there that's testified against

5 Mr. Ahmed in the FINRA hearing or in this one.

6 At the end of the presentation of all the

7 evidence from both sides, we ask that you allow Mr.

8 Ahmed to satisfy the sanctions that have already

9 been imposed by working to do so. In part, it may

10 require him to be an officer and director of a

11 public company. And with that, I thank you very

12 much.

13 JUDGE PATIL: Thank you. You can call

14 your witness.

15 MR. SCHULTZ: We would call Mr. Ahmed.

16 JUDGE PATIL: Okay. Mr. Ahmed, please

17 just come and walk up here. You're going to be

18 testifying from the witness stand to my left.

19 Before you sit down, raise your right

20 hand.

21 Whereupon,

22 FUAD AHMED

23 was called as a witness and, having been first duly

24 sworn, was examined and testified as follows:

25 JUDGE PATIL: Counsel, proceed.

1 MR. SCHULTZ: Your Honor, may I approach?

2 JUDGE PATIL: Yes.

3 MR. SCHULTZ: Thank you, Your Honor. I've

4 presented the witness and Your Honor and the court

5 reporter and counsel with a binder of exhibits that

6 we have put together. We may or may not use all of

7 them, but for the sake of convenience, we wanted to

8 put them all in a binder so everybody had them handy

9 as we need to use them.

10 DIRECT EXAMINATION BY COUNSEL FOR THE

11 DIVISION OF ENFORCEMENT

12 BY MR. SCHULTZ:

13 Q Would you please state your full name for

14 the record.

15 A Fuad Ahmed.

16 Q Mr. Ahmed, am I pronouncing it right if I

17 say Ahmed or is it --

18 A That's fine.

19 Q From 2009 to 2013, you were the president

20 and chief executive officer of a company called

21 Success Trade, Inc., correct?

22 A Yes.

23 Q And if I refer to Success Trade, Inc. as

24 STI, you'll know what I'm referring to.

25 A Yes.

1 Q You were also the company's sole officer

2 and director and largest shareholder, correct?

3 A Yes.

4 Q And you were also president and CEO of a

5 subsidiary of STI called Success Trade Securities;

6 is that right?

7 A That's correct.

8 Q And I could call that STS and you'll

9 understand the distinction between the two

10 companies; is that fair?

11 A Yes, that's fair.

12 Q Success Trade Securities was a registered

13 broker-dealer at the time; is that right?

14 A That is correct.

15 Q STI, the parent company, offered and sold

16 promissory note securities to at least 65 investors;

17 is that right?

18 A That's correct.

19 Q And in the process, received proceeds of

20 about \$20 million?

21 A To my knowledge, yes, around that number,

22 right.

23 Q And those note offerings were not

24 registered with the Commission, correct?

25 A They were registered. We exceeded the

1 and based on that, they would sign off on and invest
2 in the company. I'm not trying to shift blame, I'm
3 not trying to find excuse. I'm just trying to give
4 you the context of what it was.

5 And during the hearing, FINRA's examiner,
6 Robert Morris, said that -- when we asked him the
7 question, that how do you justify these guys are
8 making millions of dollars and they are accredited
9 investors? And his argument was, well, I Googled
10 ABC football player and based on my analysis on
11 Googling him, I think he's unaccredited. And that's
12 on the transcript.

13 JUDGE PATIL: Okay. Thank you. Please
14 proceed, Counsel.

15 BY MR. SCHULTZ:

16 Q Is it your testimony that at the time you
17 put together the PPMs -- let me strike that and step
18 back.

19 When I say PPM, you understand I'm
20 referring to a private placement memorandum?

21 A Right.

22 Q You drafted those, correct?

23 A That's correct.

24 Q And you drafted the notes that were used
25 with the investors, correct?

1 were not in the process. That was in 2008 or 2009
2 time frame. Jade Private Wealth came on board
3 around March of 2009. They are the ones who helped
4 me raise capital. And again, we'll talk about why I
5 went on the spot. A separate story.

6 After the PPMs were drafted, that's when
7 they gave these to the investors and they filled out
8 the documents for accredited versus unaccredited. To
9 the best of my knowledge and to my firm belief to
10 this day, I truly believe, based on the financial --
11 we had accounts with Success Trade as well and we
12 would look at their accounts. They were accredited
13 investors. And I stand by that. Although I
14 admit -- you don't need to show me the documents
15 again. I admitted to it. I agreed with Adam
16 everything that was signed. I'm not denying that.

17 What I'm telling you is that the argument
18 that you're making of unaccredited investors, that's
19 FINRA's definition and there are a lot of things
20 that I said that hopefully we'll discuss in detail
21 are incorrect or they have jumped the gun without
22 explaining -- giving me the option of explaining
23 this. These investors were accredited investors and
24 they came on board after the documents were printed.
25 When Jade Private Wealth came on board, they were

1 A Right.

2 Q Did you have anybody help you with those?

3 A The same thing I said. The consultants
4 initially, they helped me with it.

5 Q So you never contacted a securities lawyer
6 or someone who was experienced in drafting those
7 kind of documents to help you do it; is that fair?

8 A That's absolutely correct. And that's a
9 mistake that I admit and I made that mistake.

10 Q I'm trying to understand your answer that
11 you were giving to the Court. Are you saying that
12 at the time you put those together, you thought
13 there were an appropriate number of investors who
14 were either accredited or sufficiently
15 sophisticated, but you later learned that there
16 weren't, or are you just saying you think everybody
17 is wrong and actually all the investors were
18 sufficiently accredited and sophisticated?

19 A May I go into a little detail?

20 Q Yes.

21 A So that I don't go off on tangent, I come
22 across as I just want to explain this or --

23 JUDGE PATIL: Please.

24 THE WITNESS: Okay. When I drafted the
25 PPM with the help of a consultant, at the time we

1 their clients. They filled out those documents. So
2 they were accredited investors. Am I answering your
3 question or am I --

4 Q Well, I just want to make -- so are you
5 saying that all of the investors who bought notes
6 from STI were accredited investors?

7 A For the most part, as in majority,
8 actually, yes, they were accredited investors. Could
9 there be one or two or three? Yes. And
10 intentionally, I would not go out and start taking
11 unaccredited -- these NFL players came through Jade
12 Private Wealth Management.

13 They knew what percentage of the portfolio
14 belonged in speculative investments and which
15 percentage did not. I relied on them. In no way --
16 no way -- let me be very clear. I'm not trying to
17 shift blame, I'm not trying to find excuse. I'll
18 say that again. It's my company. I'm responsible
19 for this. But I'm just trying to explain the
20 process of accredited versus unaccredited.

21 And this is in the transcripts of the
22 first hearing that I had with FINRA as well where
23 the time -- and we spent, I think, over two hours
24 going back and forth over accredited versus
25 unaccredited questionnaire.

1 Q You agree with me FINRA found that the
2 accredited investor forms that were provided to you
3 by Jade were fraudulently prepared, right? That's
4 what the FINRA order found.

5 A That Jade did. I mean, I relied on Jade.
6 I'm not sure if that's what they said. If they
7 said, I would -- to a certain extent, I disagree
8 with it because I'm not sure. They probably took it
9 to the athletes and the athletes filled them out. I
10 was not there, so I wouldn't know. All I can say is
11 based on the financial net worth at that time with
12 my firm, that's all I could say.

13 How they were filled out, I'm not in a
14 position even to speculate about that because they
15 were their clients.

16 Q I'm just trying to make sure I understand.
17 Are you contesting that investors in STI notes, that
18 there were some investors who were not accredited
19 and who were unsophisticated? Do you contend that
20 that is untrue?

21 A I've already settled. We have already
22 signed off on this. So I'm not -- I'm just telling
23 you my side. I have to -- we'll discuss later on.
24 But going back to this point that I truly believe
25 that the investors that we brought on board were --

1 the NFL players were sophisticated investors and I
2 relied on -- at that time, I had a compliance
3 officer and I also relied on Jade Private Wealth.
4 Could there be one or two or three? Yes, there can
5 always be, but I'm not sure.

6 Q So I'm just going to go back to the
7 paragraph that we looked at earlier.

8 A Right.

9 Q On page 6 of your offer --

10 A Right.

11 Q -- you signed the next page.

12 A Right.

13 Q And if you start in the fourth line down,
14 it says, "As part of your agreement to comply with
15 the terms of the quoted passage above, you agree not
16 to take any action or make or permit to be made any
17 public statement denying, directly or indirectly,
18 any finding in the order or creating the impression
19 that the order is without factual basis, and you
20 will not make or permit to be made any public
21 statement to the effect that Respondent, you, do not
22 admit the findings of the order or that the offer
23 contains no admissions of those findings."

24 Did I read that correctly?

25 A Right.

1 Q And you agreed to that.

2 A I have absolutely agreed to it. And
3 I'm -- this is not a public hearing. This is a
4 hearing about deciding what happens to my fate as an
5 officer and director and can I repay my investors
6 back by being a powerful company. So like I said
7 earlier, I agreed to this, I have admitted to this,
8 I have signed off on this, but there are some
9 inconsistencies and it's my responsibility, having
10 signed off on this, I can explain.

11 JUDGE PATIL: Can we look at the language
12 in the OIP about --

13 MR. SCHULTZ: Yes. I was going to get to
14 that, but I just want to make sure I understand
15 that --

16 BY MR. SCHULTZ:

17 Q It's your view that this is not a public
18 hearing or you're not making public statements, so
19 you can disagree with the facts that are asserted in
20 the OIP; is that what you're saying?

21 A I'm not disagreeing with it. I consider
22 this to be a closed hearing process where I want
23 this gentleman to understand what has happened to
24 me. I want him to understand my thought process,
25 what I went through for the last three years, what

1 kind of hell I've been through. And I hope -- and
2 an unfair process. Again, I don't want to get off
3 course. How unfair, how much pressure I went
4 through three different regulatory agencies.

5 I hope I will get the chance to speak. So
6 I agree with you. I don't consider this to be a
7 public. I consider this private. This is at an SEC
8 office in front of an SEC judge and a few people
9 sitting here and it's deciding my fate.

10 So yes, I am not -- let me say again -- I
11 am not disagreeing with this. I have signed off on
12 it. I completely agree with you. And I signed that
13 as full awake, fully conscious person when I signed
14 off on it. I'm not denying that.

15 JUDGE PATIL: Counsel, I think it would be
16 useful on these issues if you go directly to the
17 language in the OIP. And I think Mr. Ahmed, if he
18 sees that, then he can provide any applicable
19 explanation to these specific provisions that you're
20 talking about.

21 BY MR. SCHULTZ:

22 Q You can either look at it on the screen or
23 feel free to use your binder, but paragraph 12 of
24 the OIP that you attached to your offer, the first
25 sentence reads, "Most of Investment Advisor A's

1 that we included in the OIP, correct?
 2 A Right.
 3 Q I'm going to show you that. This is a
 4 chart that was included, as we indicated, in the OIP
 5 in the November 2009 PPM, correct? That's what it
 6 says right above the chart?
 7 A Right.
 8 Q This chart has a number of line items and
 9 then at the bottom it says, "Total application of
 10 proceeds" and the amount is \$5 million, correct?
 11 A That's correct, yes.
 12 Q In the far right column, you have a
 13 percentage column and it totals up to 100 percent,
 14 correct?
 15 A That's correct.
 16 Q The proceeds – it indicates that the
 17 application of the proceeds will be to offering
 18 expenses of \$4,000; commissions of \$250,000; capital
 19 investments in Success Trade Securities, including
 20 advertising of \$2 million; website development,
 21 \$10,000; capital investment in BT Trade, data center
 22 infrastructure, \$500,000; software programming,
 23 \$300,000; equipment, \$250,000.
 24 Did I read that correctly?
 25 A Right.

1 Q And that includes a couple of additional
 2 line items, share buyback and debt retire, \$1.5
 3 million; legal accounting, \$6,000; working capital,
 4 \$180,000, correct?
 5 A Yes.
 6 Q If you total that up, it's going to get to
 7 \$5 million, correct?
 8 A (Witness nodding.)
 9 Q And next to each of those dollar amounts,
 10 there is a percentage and those total up to 100
 11 percent, correct?
 12 A That's correct.
 13 Q Now, in reality, you and STI used investor
 14 money for purposes you did not disclose to
 15 investors, correct?
 16 A That is correct. We used – yes.
 17 Q You made interest payments to earlier
 18 investors in the amount of \$4 million, correct?
 19 A That is correct. That was – there's a
 20 disclosure to that effect in the PPM as well.
 21 Q Where in the PPM is that disclosed?
 22 A We have the language that states that's a
 23 part of – again, I have signed off on it and I've
 24 agreed on it, so I'm not going to disagree with you.
 25 But this is for my clarification purposes as part of

1 the disagreement I have with FINRA. But I have
 2 signed off on it, so we have agreed on the
 3 settlement agreement. So I'm not renegeing or
 4 disagreeing with it.
 5 The explanation, the capital that was
 6 raised, I did exceed certain amounts. This is 5
 7 million. The amount of capital that we raised.
 8 There was, I think you said, about \$4 million that
 9 was for debt service with the understanding – which
 10 I stand corrected, that's a mistake – that the
 11 language for debt service should have been further
 12 beefed up as opposed to one line and the share
 13 buyback and debt retire should have been further
 14 clarified. I admit that. That's a mistake I made.
 15 I'm not going to deny that. And I exceeded certain
 16 amounts of what you have described here, the
 17 numbers. That's what I said.
 18 And I think the difference would be – one
 19 of them was we paid back Dwight Freaney as an
 20 investor. He wanted part of his capital back. That
 21 affected some of the ratios in coming up with the
 22 exact number because, obviously, we exceeded 5
 23 million, the amount of number that we had, it does
 24 not add up. We agree on it and I'm not disagreeing
 25 with it. I think in some cases, I invested less; in

1 some cases, I invested more. But the total amount
 2 that concerned FINRA was the fact that I used \$4
 3 million to pay investors back.
 4 Q You used \$4 million of new investor money
 5 to make interest payments to old investors, correct?
 6 A That's correct.
 7 Q And that was in the amount of \$4 million,
 8 correct?
 9 A Interest and I think there was some
 10 buyback as well, right.
 11 Q How much of – can you distinguish, do you
 12 know the difference between the portion of the \$4
 13 million that was buyback versus interest payments?
 14 A On top of my head, I wouldn't want to
 15 guess, no.
 16 Q In any event, interest payments were not
 17 disclosed in the PPM as how investor money would be
 18 used, correct?
 19 A Correct. To go back to your point, I
 20 should have done a better job of elaborating. It's
 21 there. It's a one-liner. I should have done a
 22 better job of that. Not knowing the consequences of
 23 what I am facing now, in hindsight, yes.
 24 Q The PPM said that you would use investor
 25 money to buy back shares and retire debt, correct?

1 A Retire debt and also the management -- I
2 don't have the exact -- at its sole discretion, it
3 has the ability to use the funds, so there is
4 language to that effect. I don't have that in
5 front of me, but I'll see if I can find that out for
6 you.

7 Q So you think there's some language in the
8 PPM that gave you broader authority to do basically
9 whatever you wanted with the money beyond what you
10 told investors specifically the money was going to
11 be used for.

12 A Right. I wouldn't say whatever, but I
13 would say within the context of whatever I was
14 trying to do.

15 And again, let me say this again, I'm not
16 disagreeing. I have signed off on this. So we are
17 in the process of explaining it. I'm not
18 disagreeing with -- I've signed off on it. We have
19 agreed. That's part of the settlement.

20 Q Now, you paid Jade and Jinesh Brahmhbhatt
21 roughly \$1.25 million, correct?

22 A Let me rephrase this. I lent him. There's
23 a note agreement. I did not give him. There was a
24 loan that I gave him. And let me -- this is
25 industry practice. I'm grateful, I'm thankful that

1 incorrect.

2 Again, I am not disagreeing with this
3 document. We have signed off on it. I cannot go
4 back and say I disagreed with this document. I
5 signed off on it. But this is an opportunity for me
6 to clear myself. Give explanation. There was no
7 money given to him. There was loan given to him.
8 And what further gave me confidence was the fact
9 that LPL are a very big publicly traded company was
10 lending him money.

11 When I was with Smith Barney signing as a
12 broker, they would give you money or they would give
13 you a loan. So in some cases, they would write off
14 that money. This is industry practice. Please help
15 me understand, what did I do wrong? I agreed with
16 it. I signed off on it. I'm not disagreeing with
17 you. What is wrong with it?

18 Q Where in the chart that we included in the
19 OIP that you agreed to that was included in the PPM,
20 where in that chart does it indicate \$1.25 million
21 will be paid, loaned, however you want to
22 characterize it, to Jinesh Brahmhbhatt and Jade?

23 A There was a supplement that I sent in June
24 2010 and in that supplement, we updated these
25 projections, these numbers. And in that supplement,

1 you brought this point up. Again, this has been
2 exaggerated.

3 Goldman Sachs, before he came and joined
4 my firm, he had a \$300,000 note with LPL Financial.
5 So what did I do wrong? I did what industry does.
6 Why am I being targeted and being told that that is
7 wrong? It was documented. These were documented
8 notes. What is wrong with it? If it's wrong, I
9 signed off on it. I'm not disagreeing with it.
10 That's another one of the contentions hopefully we
11 will discuss.

12 Sir, I agree with you. I did not give
13 them money. I lent him money. Should I have done a
14 better job of documenting those? Yes, but they were
15 signed documents.

16 Q So it's your contention that they were
17 loans, not that you paid the money, but the OIP in
18 paragraph 16B says, paying approximately \$1.25
19 million to Jade and Jade's principal, Jinesh
20 Brahmhbhatt, correct?

21 A That's correct. And like I say again, I'm
22 not disagreeing with you, but they were notes. They
23 were notes. I did not give money. There was no
24 quid pro quo that FINRA states that somehow you
25 scratch my back, I scratch your back. Absolutely

1 we disclosed that as of that date, I think it was
2 like 6 or \$700,000 was given to him. It was in that
3 disclosure. If my intention was to defraud
4 investors and lie, why would I send that disclosure?
5 They were mailed. We mailed them certified mail to
6 investors.

7 Q My question was different. Where in the
8 chart does it say that you'll be giving or loaning
9 money to Jade and Jinesh Brahmhbhatt in any way,
10 shape or form?

11 A It's not there. This was right before --
12 like I told you earlier, at that time, this was done
13 in March 2009 or 2008, so it was not there. But to
14 answer, it's not here. I agree with you.

15 Q And you say you created some supplement
16 and sent it by registered mail to everybody who had
17 invested with STI.

18 A As of that date, yes. And I gave a copy
19 of that supplement to Jade and I told them, make
20 sure every new investor that you give the PPM to and
21 that you raise money to, you give this to them.
22 Again, my mistake. I admit that today. I've
23 already signed off on it. I should not have relied
24 on them. I should have mailed that PPM, that
25 disclosure document to every new investor that came

1 did not hear, but Mr. Ahmed's attorney referred to
 2 the money that you provided to Success Trade, Inc.
 3 as an investment. Do you remember those questions?
 4 A Yes, I do.
 5 Q Now, it wasn't an investment, right? It
 6 was a loan.
 7 A It was not an investment. Let me explain.
 8 It was a loan. Interest was supposed to be paid.
 9 And at the maturity of the loan, I was supposed to
 10 get a balloon payment. I had the option to get cash
 11 or take the share of a company that once it is
 12 listed and we had that pricing and everything set in
 13 the agreement.
 14 Q And what was the approximate amount of
 15 principal that you initially loaned to Mr. Ahmed?
 16 A Okay. As I mentioned, "initially" is a
 17 narrow word, but I said I invested over a period of
 18 time. That from initial check to the last check, I
 19 would take to be 18 to 24 or maybe 36 months over
 20 the period of time. The total amount was \$800,000.
 21 Q Okay. Thank you. And there was a stated
 22 amount of interest on that loan; is that correct?
 23 A Yes, sir.
 24 Q And approximately what was that rate?
 25 A The first -- as I say, please don't quote

1 me on that because I don't have it in front of me.
 2 But I remember in the beginning it was about 43
 3 percent something, and then after he came and
 4 intervened and say it's too much, we cut it down to
 5 15 percent.
 6 Q So the rate went from approximately 40
 7 percent down to 15 percent; is that right?
 8 A One five percent, correct.
 9 Q Okay. Now, did you receive any interest
 10 payments on the loan that you made to Mr. Ahmed?
 11 A Yes.
 12 Q And approximately how much interest did
 13 you receive?
 14 A I mean, I don't have the exact, but I
 15 would say at least close to \$400,000.
 16 Q I'm sorry, I didn't hear that.
 17 A Close to \$400,000 over the years.
 18 Q Does \$500,000 seem like a correct number
 19 to you?
 20 A That may be right.
 21 Q If you'd like, I could direct your
 22 attention to your transcript, but I mean, when you
 23 say that seems about right, would you agree with me
 24 that you received about \$500,000 in interest?
 25 A I would say -- again, I don't have the

1 number, but maybe you're right. I'm under oath. I
 2 can't confirm something until I'm sure, but it
 3 sounds right.
 4 Q Okay. Fair enough. Why don't we do this.
 5 Why don't you open that envelope that you have
 6 sitting next to you.
 7 A How long is this going to take? I have a
 8 meeting. I didn't know it was going to take that
 9 long. Sorry, but --
 10 Q I don't know what to tell you. I'm not
 11 done.
 12 A Okay. I opened to that.
 13 Q So if you would, turn to tab 9.
 14 A Tab 9?
 15 Q Yeah. Tab number 9.
 16 A Okay. Hold on one second.
 17 Q And while you're doing that, I'll just
 18 describe that for the record. It's your testimony
 19 that you provided in front of FINRA on May 30th,
 20 2013.
 21 A Okay.
 22 Q I'm going to ask you to turn to page 130
 23 on -- again, that's tab 9.
 24 A Page 130. Okay.
 25 Q I'm going to direct your attention -- and

1 I'm going to ask that you just read this to
 2 yourself. I'm going to ask that you read to
 3 yourself lines 17 through 20.
 4 A Line what, 17 to 20?
 5 Q Yes, 17 to 20.
 6 A Okay. I read that. What about those
 7 lines?
 8 Q Does that refresh your recollection as to
 9 the amount of interest that you received from
 10 Success Trade?
 11 A Okay. Excuse me. Understand one thing.
 12 It's been over the years. I don't have any numbers,
 13 exact numbers in front of me. If I said over a half
 14 million, then maybe it is. Okay? Understand one
 15 thing. I mean, I have meetings to go. You guys put
 16 me under oath. I'm not going to confirm anything
 17 100 percent and subject to perjury. So please bear
 18 with me. Yes, maybe this is right.
 19 Q Okay. Sir, all I'm trying to -- that's
 20 your prior testimony that you gave under oath that
 21 was closer to the events and I'm just asking whether
 22 it refreshes your recollection or not.
 23 A Yes, it does.
 24 Q So is the answer to my question, yes, that
 25 you received approximately a half a million dollars

1 in interest?
 2 A Yes, maybe.
 3 Q What do you mean "maybe"?
 4 A Did you read my answer as well? It says I
 5 don't remember now, but I am sure it is over half a
 6 million. Okay? So in that time, I wasn't sure.
 7 Approximately half a million? Yes.
 8 Q Okay. Fair enough. All right.
 9 Now, you testified earlier this morning
 10 that Mr. Ahmed now owes you \$2 million; is that
 11 correct?
 12 A Say that again, I'm sorry.
 13 Q You testified earlier this morning that
 14 Mr. Ahmed owes you \$2 million; is that correct?
 15 A Yes, somewhere around there.
 16 Q Okay. So how did this loan go from
 17 800,000 to \$2 million?
 18 A Okay. When we decided to pay 15
 19 percent -- the initial agreement Fuad and I had, it
 20 was 43 percent or 50 percent. I don't remember
 21 that. But when he said I'm under pressure by SEC, I
 22 cannot pay you 50 percent, I told him, I don't care,
 23 you made a deal with me, it's in writing. Okay. You
 24 don't want to pay me right now because you're under
 25 pressure? Well, that's not my problem. I took a

1 big risk in lending you money which is this scratch
 2 company and the reason is I work very hard. I need
 3 my money.
 4 So then we agreed, okay, we will give you
 5 15 percent and then we will also have a balloon
 6 payment at the end of -- I believe that was December
 7 2012, maturity. And that -- I don't remember all
 8 the parts like that. We went back and forth like
 9 several days negotiating. So we settled on \$1.5
 10 million. And if you have a copy of the note, it
 11 would say somewhere that he was supposed to pay me a
 12 lump sum of 1.5 million by December 20th, 2012, if I
 13 can recall. Or I had the option to get the share of
 14 the new company when he list everything \$1 per
 15 share. So that's 1.5 million, which never occurred.
 16 And then I believe we had another
 17 agreement, since he didn't have the cash in 2012 and
 18 he could not list the company because of FINRA
 19 activity, then we agree that he's going to keep
 20 paying me 15 percent on that \$1.5 million until we
 21 settled everything. So if you take the 1.5 that he
 22 owed me in 2012 and if you add the 15 percent
 23 interest in the last three years, it should come up
 24 to 2 million. That's where I came up with the rough
 25 figure.

1 Q Okay. So that's accrued interest that
 2 brings it to 2 million, plus the balloon payment?
 3 A Yes, sir.
 4 Q So am I correct in understanding that Mr.
 5 Ahmed at some point in time quit paying interest on
 6 this note?
 7 A I'm sorry, say that again.
 8 Q Is it correct that Mr. Ahmed quit paying
 9 interest on this note at some point?
 10 A Yes, he did. Of course.
 11 Q And when did he stop paying interest?
 12 A I believe that was somewhere in the middle
 13 or the later part of 2012 or early part of 2013. I
 14 just can't remember that. Somewhere in that
 15 neighborhood.
 16 Q Did he tell you why he had an inability to
 17 pay the interest on the note?
 18 A Cash flow.
 19 Q Cash flow?
 20 A Yes.
 21 Q Did he blame FINRA?
 22 A I'm sorry?
 23 Q Did he blame FINRA for his inability to
 24 pay?
 25 A He blamed FINRA for his inability to pay,

1 especially when he was going to list the company, I
 2 don't know, maybe March somewhere 2013. And then I
 3 agreed since you don't have the cash, then give me
 4 all the shares and then he could not list the
 5 company because of the FINRA. So definitely he did
 6 blame FINRA for everything that took place, yes.
 7 Q Now, as a result of his inability to pay
 8 the interest on the note, did you and he engage in
 9 discussions about your acquisition of any of his
 10 businesses.
 11 A Yes. That's where the idea came of buying
 12 the Success Trade Securities and Just 2 Trade
 13 together. So I said, I believe if I recall, I'll
 14 assume -- it was not a cash transaction, by the way.
 15 It was taking assets and liabilities. I would take
 16 all the assets of Success Securities and Success
 17 Trade and -- hold on a second.
 18 So, yeah, if I can recall, I believe what
 19 we agreed, that at that point, whether 1.5 or 2
 20 million he owed me, that would be part of that and
 21 then I will assume up to \$10 million of money that
 22 he owes to the note holders and I would pay them
 23 over three to five years, that kind of agreement
 24 work down.
 25 BY MR. CONWAY:

1 Q Okay. So the contours of the deal is
2 really you were not infusing any new cash into the
3 business of your own, right?

4 A Say that again.

5 Q You were not injecting any new money into
6 the purchase of Mr. Ahmed's businesses, correct?

7 A I was not giving him any money, but I had
8 to infuse cash to run the business as far as the
9 operating expenses are concerned. Even I have to
10 look at the -- I looked into the financials and I
11 realized that the way he was -- all the expenses to
12 Just 2 Trade, I had my own buildings, I had my own
13 staff, I could cut down those expenses dramatically
14 and I could turn the company into a profit within 30
15 days. I remember that because of all the expenses
16 that he was paying through Just 2 Trade and it would
17 have been a much more better phenomena and then I
18 can start paying off the note holders sooner than
19 later.

20 Q Okay. But, sir, the deal was structured
21 that in exchange for the debt that Mr. Ahmed owed
22 you, you would get certain assets from him and
23 assume certain liabilities of his companies; isn't
24 that right?

25 A Yes, sir.

1 Q You were not writing, for example, a \$5
2 million check to Mr. Ahmed in addition to the things
3 I just described.

4 A No, sir.

5 Q Now, were you personally guaranteeing any
6 of the liabilities that you were assuming, including
7 the notes of the various professional athletes?

8 A No, I was not.

9 Q And why not?

10 A Listen, I mean, who would personally
11 guarantee 10 million? I mean, even in my own
12 business, it's designated under the corporation.
13 That's why we have the corporation. How would I
14 guarantee 10 million when I don't know any outcome?

15 I mean, in business, you can predict and
16 plan, but the future is never going to be. So who
17 in their right mind would guarantee \$10 million for
18 nothing? I mean, this is not -- I don't know what
19 kind of question it is. Any prudent businessman
20 would never do that.

21 Q Let me just focus in on a moment on the
22 notes that were issued to the various professional
23 athletes. Now, did you intend to pay those notes in
24 full once you acquired --

25 A Absolutely. Oh, yeah, that was absolutely

1 the sincere intent. Absolutely. I could foresee
2 that in three to five years, we can have tremendous
3 amount of growth in the company and this should not
4 be a problem for me to pay all those notes.

5 Q Let's back up for a minute. Let's back up
6 for a minute. You capped the amount of liabilities
7 that you were assuming at 10.7 million; is that
8 right?

9 A That sounds right.

10 Q Okay. How much did Mr. Ahmed owe the
11 various young professional athletes?

12 A I have no idea now.

13 Q So how can you say under oath that you
14 were going to pay them in full when you didn't even
15 know what was owed to them?

16 A No. I was only responsible for 10
17 million. I don't know how much he owes them.

18 Q Okay. What if those athletes were owed 15
19 million. What would happen to the difference?

20 A He would pay.

21 Q He would pay?

22 A The notes he showed me, the total amount
23 of money he owed at that time was about 16 million
24 or so or more. I only agreed to 10-point whatever.
25 I didn't agree to 100 percent of the loan.

1 Q I just want to make sure the record is
2 clear because what I heard you testify to earlier is
3 slightly different than what you just testified to
4 now. Is it your testimony that you intended to pay
5 all the young professional athletes in full?

6 A Okay. I don't remember what belongs to
7 who. I only remember the figure. That was 10-plus
8 million. I don't know if it was athletes or it was
9 nonathletes. I don't remember that. And I was not
10 paying the full 16-17 million. I know that as well.

11 Q Is it true, sir, that you testified before
12 that you didn't have any idea or any certainty what
13 the athletes were owed and that you were going to
14 negotiate with them and you were going to offer them
15 a certain amount of money and that was going to be
16 it? It was going to be a take-it-or-leave-it
17 proposition?

18 A Did I say that?

19 Q Yes.

20 A Maybe. I don't know. Listen, it's been
21 how many years?

22 Q Sir, just to be clear, though, it is not
23 your testimony that you intended to pay the notes in
24 full that Mr. Ahmed's company issued to the various
25 professional athletes; isn't that true?

1 A Okay. Remember, I might have said that. I
2 don't remember now. It's been a while.

3 Q So let me just direct your attention then
4 to page 116 and 117. If you could just read
5 starting at line 13 and read to line 22 and let me
6 know if that refreshes your recollection as to
7 whether you ever made an agreement with Mr. Ahmed
8 that as part of this asset and liability transfer,
9 you were committing to pay the NFL players in full,
10 regardless of whether the notes were less than or
11 more than the \$10.7 million that we've been
12 discussing.

13 A Okay. Let me -- the line 13 on page 116,
14 is that what I said or what is it? Could you
15 explain to me that?

16 Q You're the witness. You're the witness.
17 A Say that again.

18 Q You are the witness. See at the top of
19 the page where it says "the witness"?

20 A So these are my words?

21 Q These are your words from your FINRA
22 testimony on May 30th, 2013.

23 A So hold on one second. Let me be very
24 clear. "So now in answer to your question: In my
25 opinion, honestly speaking, my personal would be at

1 this point in the game if they get their money back,
2 they are very lucky. So I don't think I am going to
3 offer them any interest rate and say I will keep you
4 paid, but I have to make an arrangement with them. I
5 will pay you your money back, but I have to give you
6 1 or 2 percent interest rate. But I am not going to
7 pay you significant, like" --

8 Q Sir, just read it to yourself and let me
9 know if it refreshes your recollection as to --

10 A Listen, if I said that, then I said that.

11 Q Sir --

12 A What can I say?

13 Q Okay. Sir --

14 A So even if --

15 MR. CONWAY: Your Honor, if I could just
16 read a portion of the transcript.

17 MR. SAACKE: That's fine.

18 THE WITNESS: All I'm saying is that I may
19 have negotiated with them on the interest rate.
20 Instead of 15 percent, I may have paid 1 or 2
21 percent and never said in that testimony that I
22 would not pay them the money that I owed them.

23 BY MR. CONWAY:

24 Q Sir, in the interest of time and with the
25 Court's indulgence, I'm going to direct your

1 attention to line 9 of page 116 and I'm quoting your
2 words. You said -- well, let me start at line 7.
3 You said, "I don't know how much those NFL players,
4 whether it's 13 million or 14 million or 15 million.
5 I am not going to pay all of them whatever it is,
6 10.7 million."

7 A Okay. Hold on.

8 Q My question is --

9 A Can I finish now, please?

10 Q Sure. Go ahead.

11 A This is exactly what I said 10 minutes
12 ago. I don't know what is the NFL. I told you I
13 don't know who is what. So I don't know how much he
14 owes the NFL players. I committed to 10.7 million
15 and that's it.

16 Q Okay. So if they were owed \$20 million,
17 then they would be out of luck for the difference.

18 A If they were \$20 million, that's their
19 problem, not mine.

20 Q Okay. Fair enough. Let's move on, then.

21 Did Mr. Ahmed ever tell you that he
22 entered into any sort of settlement agreement with
23 the SEC?

24 A I'm sorry, say that again.

25 Q Did Mr. Ahmed ever inform you that he

1 entered into a settlement with the SEC?

2 A Settlement agreement? Yeah, he did.

3 Q And what did he tell you about it?

4 A Not all the details. He said I believe he
5 is going to pay some penalties and the Just 2 Trade
6 money that they got, because it was sold for a
7 couple hundred thousand dollars, they're going to
8 send that money to all the loan holders based on
9 their contribution, blah, blah, blah, and that's it.
10 Not a lot of details.

11 Q Did he tell you that as part of that
12 settlement, he agreed not to contest, for fact
13 purposes of today's hearing, that among other
14 things --

15 A Say that again.

16 Q I said did he inform you that part of that
17 settlement included his agreement that he would not
18 contest, for purposes of today's remedies hearing,
19 certain facts as alleged in the OIP that that's the
20 complaint that he settled to?

21 A Not to my knowledge. I don't recall any
22 kind of conversation like that.

23 Q Did he tell you that among other things,
24 he agreed not to contest the fact that he misused
25 investor funds to pay his personal expenses,

1 including a Range Rover payment?

2 A We didn't discuss that either. Actually,
3 we didn't discuss -- remember, as I mentioned 15
4 minutes ago, we are not talking as much as we used
5 to. I believe the last time we spoke was a week ago
6 and before that, it was like three, four months ago.

7 Q Okay. You testified earlier that you
8 think Mr. Ahmed is an honest person, correct?

9 A That's my understanding, yes. I still say
10 that.

11 Q Okay. And knowing the facts that I just
12 mentioned to you, would that in any way impact your
13 view of his veracity and honesty with regard to his
14 interaction with investors?

15 A Okay. If I don't know anything, how am I
16 going to make a judgment about him?

17 Q Well, the OIP is a public document and Mr.
18 Ahmed has been on the stand this morning. I
19 understand you're not here, but he's affirmed that
20 he did enter into that agreement, and for purposes
21 of this hearing, one of the facts is that he misused
22 investor funds for his own personal expenses.

23 Now, assuming those facts, is that
24 something that would change your view of his
25 honesty?

1 A No. Honestly speaking, no. Do you know
2 why? Because that you in the plea bargain deal and
3 you are under pressure and it's a matter of life and
4 death, sometimes you have to sign off on a document
5 that you don't want to sign. So I don't know what
6 the reality is. I have no proof of his dishonesty.
7 Until I have proof of his dishonesty, it's he
8 said/she said. You know, first they came up with a
9 Ponzi scheme and then they backed off. So I mean, I
10 can't -- I'm not going to change my opinion when, in
11 regards with me, he never showed any dishonesty. I
12 don't care about others.

13 Q You would agree with me, though, that it's
14 important that somebody who is in the securities
15 industry is honest and have a high degree of
16 personal integrity, right?

17 A Absolutely.

18 Q And you would agree with me that somebody
19 who is offering securities to investors should be
20 honest not only in the disclosure of the way they
21 intend to use that money, but, in fact, the way they
22 do use that money, correct?

23 A Absolutely.

24 Q And if an investor gave his money to a
25 company and that company misused the money, you

1 would agree with me that that would be fraud, right?

2 A Absolutely.

3 Q And I guess just finally, do you have any
4 opinion one way or the other as to whether Mr. Ahmed
5 should be barred from the securities industry?

6 A My opinion is everybody makes mistake. He
7 might have made mistake. I have no proof of that.
8 And my opinion is that everybody deserves a second
9 chance. If those mistakes are not -- I mean, fatal.
10 I believe he is honest. He is very hardworking. I
11 know him. Great character, great personality, great
12 integrity, genius. Great asset to the industry. I
13 would suggest he should not be barred.

14 Q All right.

15 A So that's my opinion. You may not want my
16 opinion, but that is my opinion.

17 Q Okay. Fair enough, sir. And again, just
18 to -- this will be my last question. You don't have
19 any knowledge regarding what interactions Mr. Ahmed
20 had with other STI investors, do you?

21 A With other investors?

22 Q Yes.

23 A No, not -- I don't have a lot of
24 knowledge. Absolutely not. Yeah.

25 Q And again, I touched on this a moment ago,

1 but if you learned that Mr. Ahmed had used investor
2 funds to buy clothes, make car payments and take
3 care of other personal business, would that in any
4 way impact your testimony here today?

5 A That would definitely impact my testimony
6 if he used those funds to buy clothes? No, that is
7 also being a businessman. Because I own my own
8 business, if I own the company 100 percent, I can
9 use the funds to buy clothes for myself as long as
10 those funds are eventually part of the profitability
11 and not the funds that I took from investors.

12 Q Okay. Thank you, sir.

13 A You're welcome. Is that it?

14 Q Well, I don't know if counsel --

15 MR. SAACKE: No questions.

16 JUDGE PATIL: All right. Mr. Khokhar,
17 thank you very much for your testimony today. You're
18 now excused from the subpoena.

19 (The witness was excused.)

20 MR. SAACKE: We're ready to call Bill.

21 JUDGE PATIL: All right.

22 MR. SAACKE: Unless you want to take a
23 break.

24 JUDGE PATIL: No, no, no, no, no, no. I
25 mean, we had a pre-hearing conference in this case.

1 Again, if I had the document, you could point it out
2 to me or make me aware of it, I would say yes, but I
3 cannot respond to that affirmatively. So the answer
4 is I don't know.

5 **Q** So let me ask the question a different
6 way. Did Mr. Ahmed ever tell you that he agreed not
7 to contest allegations in the OIP that he had
8 misused investor money to pay personal expenses?

9 **A** I believe the answer to that question
10 would be yes.

11 **Q** What did he tell you?

12 **A** That he was trying to move on with his
13 life and that he wanted to just get this behind him.
14 So that was the extent of it; that I guess he agreed
15 to whatever was written out. Again, without seeing
16 it in front of me and it's been a while since I
17 spoke to him about this, a considerable amount of
18 time, and I didn't get into any detail because I
19 knew at the end of the day, I was not getting my
20 money back. So what he agreed to really was kind of
21 irrelevant.

22 **Q** Do you recall any details of what Mr.
23 Ahmed said about that settlement agreement?

24 **A** No. To be honest with you, I do not, no.

25 **Q** Would it make any difference to you, as

1 not disclosed to investors, what, if any, impact
2 would that have on your view of Mr. Ahmed's veracity
3 and honesty?

4 **A** It would cause me some concerns.

5 **Q** And what concerns would it cause you, sir?

6 **A** Well, again, if it's a direct link where
7 he's taking the money out of -- I think you're
8 asking the question in a manner that I obviously
9 can't give you an answer that you're looking for
10 because -- and excuse me, I'll retract that. I
11 shouldn't say what you're looking for. I can't give
12 you the answer other than saying it would cause me
13 some concerns as to his honesty and integrity if he
14 was doing something like that directly. I would
15 have to start with the basis.

16 I mean, I would probably not be the best
17 person to be on the other end of this phone right
18 now being a character witness if I believed that to
19 be the case, but I do not believe that to be the
20 case.

21 **Q** Okay. Well, let me just give you a little
22 more detail.

23 **A** Okay.

24 **Q** The Order Instituting Proceeding -- and
25 I'm going to represent this to you because I can't

1 somebody who is testifying on his behalf here today,
2 if indeed he had misused investor funds to pay for
3 clothes, car payments and other personal items?

4 **A** Would it make a difference to me?
5 Absolutely it would, yes.

6 **Q** And why? Why would that make a difference
7 to you?

8 **A** Well, again, if he took some of the
9 investor funds and paid himself a salary and used
10 those funds to live his life, that's his business,
11 you know. Because he's entitled like anyone else.
12 And I run businesses and I have a salary and my
13 managers have salaries. And how they use their
14 money is their business.

15 Now, if he just took -- if I deposited --
16 if I gave him money, he took the money and went and
17 spent the money deliberately and not grew the
18 company, I would have concern about that. But
19 beyond that, how he pays himself and what he does
20 with it is kind of his ability to run the business
21 and I don't micromanage business investments like
22 that.

23 **Q** Fair enough. But to the earlier point, if
24 indeed Mr. Ahmed was taking investor money and using
25 it to pay his personal expenses in a way that was

1 show you the document.

2 **A** That's fine.

3 **Q** And I'll represent to you that for
4 purposes of today's hearing, Mr. Ahmed agreed that
5 he would not contest the fact that, among other
6 things, he misused proceeds by paying approximately
7 \$4 million in interest payments to earlier STI note
8 investors; that he used approximately \$800,000 to
9 pay his personal expenses, including credit card
10 balances, clothing and travel; that he also used
11 some investor money to make a monthly payment of
12 approximately \$1,300 on a Range Rover.

13 Now, those facts are in the OIP and Mr.
14 Ahmed agreed not to contest those facts for purposes
15 of today's hearing. Under that scenario, what, if
16 any, impact do those facts have on your view of Mr.
17 Ahmed's integrity?

18 **A** It would make me have a lot of questions
19 about -- and that I would want to ask him directly
20 as to were they, in fact, real or did you just agree
21 to this just to get this settled and to move on with
22 your life. That would be my question.

23 Obviously, I'm not in a position to ask
24 that question now. I know he can hear my voice in
25 the courtroom, but that would be my concerns right

1 Five to ten minutes is fine.
 2 JUDGE PATIL: No, I need to get people --
 3 MR. CONWAY: Forty-five minutes?
 4 JUDGE PATIL: Yeah. And I need to give
 5 people an opportunity to eat. I mean -- you know,
 6 I'm sorry. I know you're eager to get your
 7 testimony done, but I can't allow counsel not to
 8 have food. We're not going to be able to go
 9 straight through with their hour and your probably
 10 an hour; is that right?
 11 MR. SAACKE: I'm going to represent that I
 12 am not going to go over anything that you've already
 13 elicited.
 14 JUDGE PATIL: Okay, look. We're about to
 15 go off the record. We're going to reconvene at
 16 1:00 p.m., and then we're going to go and I'm sure
 17 finish today. Thank you.
 18 (Whereupon, from 12:16 p.m. to 1:00 p.m.,
 19 a luncheon recess was taken.)
 20 AFTERNOON SESSION
 21 JUDGE PATIL: Okay. We'll go on the
 22 record. Mr. Ahmed, you're under a continuing
 23 obligation to tell the truth. Do you understand
 24 that?
 25 THE WITNESS: Yes.

1 JUDGE PATIL: Counsel, please go ahead.
 2 DIRECT EXAMINATION BY COUNSEL FOR THE
 3 DIVISION OF ENFORCEMENT
 4 (RESUMED)
 5 BY MR. SCHULTZ:
 6 Q Mr. Ahmed, earlier today we were having a
 7 bunch of questions and you were explaining that you
 8 didn't do things intentionally and you made
 9 mistakes. Do you recall that testimony?
 10 A Yes.
 11 Q I'm going to show you page 9 of the OIP
 12 that you attached to your settlement offer. Focus
 13 your attention on paragraph 44. And the OIP finds
 14 that you acted intentionally in performing your
 15 fraudulent acts. Do you see that?
 16 A Yes.
 17 Q And are you sitting here disputing that
 18 you acted intentionally in committing fraudulent
 19 acts?
 20 A Can I elaborate or do I have to say yes or
 21 no?
 22 Q You can answer -- you can give a further
 23 elaboration when your counsel is asking questions.
 24 A Then what is your question, please?
 25 Q The question is, are you disputing that

1 you acted intentionally in performing fraudulent
 2 acts?
 3 A What's written here, based on what I
 4 signed, that is correct, yes.
 5 Q So you're not disputing it.
 6 A I'm not disputing it at all, no.
 7 Q In paragraph 41 of the OIP that you
 8 attached to your settlement offer, the Commission
 9 finds that your violations were egregious in that
 10 they involved repeated knowing misstatements and
 11 omissions that occurred over a period of
 12 approximately four years and resulted in a fraud of
 13 a significant magnitude. Do you see that?
 14 A Yes.
 15 Q And as you sit here right now, are you
 16 disputing the allegations and the findings that are
 17 in paragraph 41?
 18 A I answered this before and I agree with
 19 you, no, I don't. I never will. I have signed off
 20 on it and my counsel was not present there, but I
 21 signed off on it and I agree with you. I'm not
 22 denying that ever, neither am I ever disputing it.
 23 Q So you're not denying --
 24 A No.
 25 Q -- you're not disputing --

1 A No.
 2 Q -- that your conduct was egregious and
 3 resulted in a fraud of significant magnitude.
 4 A Based on what I signed, yes. I totally
 5 agree with you, yes.
 6 Q So you're not disputing it.
 7 A What I signed off on, I agree with you,
 8 yes.
 9 Q You agree that you committed an egregious
 10 fraud -- that you engaged in egregious conduct that
 11 resulted in a significant fraud. You agreed to
 12 that.
 13 A I agreed to what I signed off on. I will
 14 say that again. Yes, I admit that. I will give
 15 explanation later on, but based on what I signed,
 16 I'll say it again. I signed off on and I agree to
 17 what was given to me and based on the circumstances
 18 that were present, I signed off on it and I agree
 19 with you. I'm not disputing it one bit.
 20 Q So you don't dispute that you committed an
 21 egregious fraud of significant magnitude.
 22 MR. SAACKE: I'll object as asked and
 23 answered.
 24 JUDGE PATIL: Sustained. Also, I think
 25 you're -- that is sort of interposing some of the

1 order of the words.
 2 BY MR. SCHULTZ:
 3 Q I'll move on to paragraph 42. Paragraph
 4 42 reads, "Ahmed's fraudulent conduct was complex
 5 because, among other things, it involved multiple
 6 industry participants, sophisticated offering
 7 materials, and the creation and dissemination of a
 8 misleading valuation report."
 9 Do you see that?
 10 A Yes.
 11 Q Do you dispute that you engaged in
 12 fraudulent conduct?
 13 A Again, I don't dispute what is written
 14 there. I don't dispute that. I agree with you. I
 15 am agreeing to it and I am moving on. I will give
 16 my side of the explanation when I'm ready, but right
 17 now, I don't want to get into that argument. I
 18 agree with you. I signed off on. I agree with you.
 19 I take responsibility.
 20 Q You agree that you created and
 21 disseminated a misleading valuation report.
 22 A That part I disagree with, but based on
 23 what I signed off on here, I will say, yes, I signed
 24 off on it.
 25 MR. SCHULTZ: Your Honor, just for the

1 record, I don't know if this is going to become an
 2 issue again, but it was this morning. The facts
 3 that are asserted in the OIP are facts that he's
 4 agreed to. They're uncontested. The findings are
 5 uncontested. And we would just ask that, if
 6 necessary, that you instruct the witness not to go
 7 into what he thought and believed that's
 8 inconsistent with the facts that are asserted and
 9 that he's agreed to.
 10 JUDGE PATIL: I understand your point. I
 11 mean, these things are conclusive for my decision
 12 already. I do appreciate why you're asking him
 13 these questions because it reflects on a number of
 14 factors, including his acceptance and acknowledgment
 15 of wrongdoing and also with regard to some of these
 16 issues that have a word in them like it may talk
 17 about the fraud being egregious, but he is able, I
 18 think, to talk about the frauds and he's able to put
 19 it into a context. Some of those issues will be,
 20 you know, pertinent to me.
 21 Those explanations, though, I do think
 22 should come in response to your counsel's questions
 23 where he will be able to allow you to tell your part
 24 of the story. If all that Division counsel is
 25 doing, which I think he is, is making sure that you

1 understand each of these provisions and you agree
 2 that you -- sorry, you acknowledge that you agreed
 3 to this as part of the settlement agreement, we can
 4 just go through these. It's because it's creating a
 5 transcript record of it and so he'll read it and
 6 you'll say yes, I agree to this and then the next
 7 one and the next one. He's not going to do it with
 8 the whole OIP. Just a few key portions, I hope. I'm
 9 guessing there's not more than maybe five or ten of
 10 these you're going to go through, right?
 11 MR. SCHULTZ: I'll run through the ones
 12 that are highlighted here, Your Honor, and then I'm
 13 going to shift to some of the facts that are
 14 elsewhere asserted in the OIP.
 15 JUDGE PATIL: Okay. So very good. So if
 16 on these you sort of proceed in the format I've
 17 described where he says exactly that, you know, you
 18 acknowledge you agreed to this for purposes of the
 19 settlement, yes, or however he phrases it, and then
 20 to the extent that you need to explain these things
 21 and provide a side of the story and the surrounding
 22 context that you think will be helpful to me in
 23 deciding the larger issues relative to whether you
 24 should have your license remain, licenses or
 25 permissions remain, then your counsel can ask about

1 that and that I imagine he's going to.
 2 All right. So don't feel like you're
 3 going to get cut off or this is a trick. It's not.
 4 It's to sort of make a good record where he is
 5 asking you do you understand that you accepted
 6 responsibility for these things and you agreed to
 7 them for purposes of the settlement in this
 8 proceeding and you will just say, yes, yes, yes,
 9 assuming that you do, and then we'll go on.
 10 THE WITNESS: Sure.
 11 JUDGE PATIL: Thank you. Go ahead,
 12 Counsel.
 13 MR. SCHULTZ: Thank you.
 14 BY MR. SCHULTZ:
 15 Q If we look at paragraph 43, the first
 16 sentence reads, "Ahmed's violations resulted from
 17 his abuse of his position as an officer and
 18 director," correct?
 19 A Yes.
 20 Q Do you agree that you abused your position
 21 as an officer and director?
 22 A Yes.
 23 Q "As the sole officer and director of STI
 24 and STS, Ahmed was able to direct their
 25 participation in the fraud." That's the next

1 sentence in paragraph 43, correct?
 2 A Yes.
 3 Q Do you agree that you directed their
 4 participation in your fraud, your company's
 5 participation in your fraud?
 6 A Yes.
 7 Q And paragraph 43 reads, "Ahmed used his
 8 authority to authorize knowing misrepresentations
 9 and omissions by STI and STS."
 10 Do you dispute that you used your
 11 authority with the companies to authorize knowing
 12 misrepresentations and omissions by the companies?
 13 A Yes.
 14 Q My question was poorly worded. I asked do
 15 you dispute that. So rephrase that. Do you agree
 16 with that assertion in the last sentence of
 17 paragraph 43?
 18 A Yes, I agree with what you've said, yes.
 19 MR. SAACKE: I just want to object for the
 20 record to the extent that I want to know if Mr.
 21 Ahmed understands the way that you're phrasing the
 22 questions because --
 23 JUDGE PATIL: Overruled. I mean, really,
 24 as I said, these are conclusive for the purposes of
 25 my fact-finding here. It's already -- the

1 Commission has already said that. I can't say, no,
 2 Commission, I don't agree with these things. When
 3 they say it's conclusive, it's conclusive.
 4 And so we are just getting an
 5 acknowledgment that he understands these things are
 6 in here and that he agreed to them. I mean, I
 7 assume this is the document he agreed to. It's
 8 exactly the same OIP as I've seen since the
 9 beginning of these proceedings. So I'm hopeful that
 10 nothing here comes as a surprise.
 11 MR. SAACKE: I'm just saying there's a
 12 difference between seeing they're there, knowing
 13 that he signed off on a document that says they're
 14 in there and his belief that he actually did it or
 15 not because he had to sign off because of
 16 circumstances that led him to.
 17 JUDGE PATIL: Okay. Overruled.
 18 MR. SCHULTZ: That's all something he
 19 can --
 20 JUDGE PATIL: Overruled. First of all, I
 21 don't think that there is actually a difference with
 22 respect to me having to accept these findings as
 23 conclusive for purposes of my decision because I'm
 24 obliged to hold to them because the Commission has
 25 ordered that I do so.

1 Surrounding circumstances, his belief and,
 2 as I alluded to earlier, his understanding at a
 3 particular time period whether something was the
 4 case versus whether he realized in retrospect that
 5 that thing had taken place and he's agreed to it
 6 since then, those types of things, I think, are the
 7 facts and circumstances which are important.
 8 You know, the efforts that he took for
 9 compliance and, you know, other surrounding
 10 circumstances that you've alluded to that made it
 11 difficult to comply, those things could be
 12 extenuating circumstances which I do want to hear
 13 about when you go into your examination, but I don't
 14 want to hear debate about these things that I've
 15 been ordered to accept as true are not, in fact,
 16 true. Because if I were to say, oh, it's not true,
 17 this would obviously be sent back to me, I think,
 18 rather quickly or, you know, my decision would be
 19 subject to reversal regardless of whether it comes
 20 back because I would be ignoring a direct order of
 21 the Commission, and not just a direct order of the
 22 Commission, but one that arises from an agreement
 23 and negotiation of the parties that is honored by
 24 the Commission in promulgating this order and then
 25 sending it to me and to us to discuss and decide

1 this issue of remedies.
 2 So that's why I'm overruling the
 3 objection. I mean, it's well taken, but overruled.
 4 Counsel, please proceed.
 5 BY MR. SCHULTZ:
 6 Q Mr. Ahmed, paragraph 45 reads, "Ahmed
 7 obtained a pecuniary gain through his fraudulent
 8 acts."
 9 Do you agree that you obtained a pecuniary
 10 gain through your fraudulent acts?
 11 A Yes.
 12 Q It also reads that Ahmed received
 13 approximately \$800,000 in proceeds from the
 14 fraudulent offering that he used for his personal
 15 living expenses."
 16 Do you agree with that statement?
 17 A Yes, but that has been repaid. But that's
 18 correct.
 19 Q It also reads that you used offering
 20 proceeds to pay your vehicle lease. Do you agree
 21 with that statement?
 22 A Yes.
 23 Q Mr. Ahmed, you'd agree with me it's
 24 important to be truthful and honest with investors
 25 that you're working with, right?

1 A Yes.
 2 Q If you tell them you're going to use money
 3 in a certain way, you should use the money in the
 4 way that you tell them you're going to use it,
 5 right?
 6 A Okay.
 7 Q Do you agree with that?
 8 A Right.
 9 Q If you tell investors I'm going to use
 10 money to invest in my business and help grow it, you
 11 should actually then use the money to invest in the
 12 business and help grow it, yes?
 13 A Right.
 14 Q If you use investor money in some way you
 15 didn't tell them about, a secret, undisclosed way,
 16 that would be dishonest, right?
 17 A Okay. Yes.
 18 Q Did you tell any investors in STI that you
 19 were going to use \$800,000 of investor money to buy
 20 clothes, pay your credit card balances, make loans
 21 to yourself?
 22 A Very good question. These loans started
 23 even before I started this offering. The day the
 24 news broke, I saw Adam. I came there with my
 25 assistant, voluntarily, mind you, and shared all my

1 financials with the SEC. And part of that
 2 discussion was I gave them my tax returns and you
 3 have access to my tax returns.
 4 And based on my tax returns, you will see
 5 if I was somebody who was trying to take advantage
 6 or being dishonest with investors, I made \$25,000,
 7 \$22,000, \$25,000, 28,000. These are my tax returns.
 8 So, yes, I did lend myself the money and
 9 the perception that you guys have created, that
 10 FINRA created -- and that's the issue I have with
 11 this whole process -- is I have been made out to
 12 look like a bad guy. I tried to do the right thing.
 13 I could have paid myself 300,000 or \$400,000 in
 14 salaries. I did not. My thought process from day
 15 one was I am going to be fully vested with the
 16 investors. And yes, some of the credit card
 17 expenses, I signed off on it. I'm not disputing
 18 that. FINRA was incorrect.
 19 If you look at my transcripts,
 20 on-the-record transcripts before FINRA did the press
 21 release, they themselves had to correct themselves
 22 on the QuickBooks. They gave me checks on the
 23 record saying you wrote a \$100,000 check to yourself
 24 for Domino's Pizza, Mr. Ahmed. Then they showed me
 25 another check and said you wrote yourself a \$200,000

1 check to a deli.
 2 So FINRA itself did not know what they
 3 were showing me. And then I showed them my
 4 QuickBooks the next day and they realized they made
 5 a mistake.
 6 So to answer your question in a nutshell,
 7 yes, I lent myself, I gave myself \$800,000, which,
 8 by the way, by now has been paid and I believe you
 9 have the documentation. I've paid the majority --
 10 all of that has been paid back.
 11 And importantly, I did not give myself
 12 salary because I really wanted to make sure that
 13 money goes back and, importantly, it shows as an
 14 asset for the company on the balance sheet, that I
 15 owe that money to the company. Did I make a mistake
 16 of not documenting that correctly? I've said from
 17 the beginning I messed up. I made mistakes. And a
 18 lot of those mistakes were unintentional. Maybe I
 19 should have hired an attorney from day one. I sit
 20 here to the day I die, I admit those things.
 21 But the key is intention. Not even for a
 22 millisecond, fraction of a millisecond I intended of
 23 deceiving my investors.
 24 Q So you disagree then with paragraph 44.
 25 You're disputing the allegations in paragraph 44

1 that you acted intentionally in performing your
 2 fraudulent acts.
 3 A I am giving you an explanation. I have
 4 signed off on it with full responsibility and I will
 5 stand by what I've written there. I've told you day
 6 one, everything you put in front of the screen, I
 7 will own up to it. I've agreed to it.
 8 Q But now you're saying it wasn't
 9 intentional, it was just a mistake, it was an
 10 accident, but you agreed to the Commission's finding
 11 that it was intentional.
 12 A I have signed off on it and again, I agree
 13 to it, sir. I'm not disagreeing with you. This is
 14 the same discussion I had with them several times.
 15 This is the same discussion I'm on the record on
 16 transcripts. If you want to somehow get me to say
 17 that I did this intentionally or -- no, I admit to
 18 it. I signed off on it as a grown man that I agreed
 19 to it.
 20 But it's important, at some point I want
 21 the judge to understand what happened, what are the
 22 circumstances. But what is written here, I 100
 23 percent stand behind it. I signed off on it.
 24 Q Just going back to the question I asked
 25 before you got to your answer, there were a couple

1 of things that I identified and I'll just take them
2 one at a time.

3 A Right.

4 Q Did you tell investors in Success Trade
5 that you were going to use investor money to buy
6 clothes?

7 A No.

8 Q Did you tell investors in Success Trade
9 that you were going to use investor money to pay for
10 a lease on your Range Rover?

11 A No, I did not.

12 Q Did you tell investors in Success Trade
13 that you were going to use investor money to pay for
14 travel? For personal travel?

15 A Again, that's more of a question of
16 personal travel, because a lot of that was business
17 travel. I'm not even sure there was personal
18 travel. I'm assuming that -- the assumption on my
19 part, which is correct or incorrect, it's part of
20 operating expenses of the company, so it should be
21 there. But I did not specifically went to --
22 because I was not dealing with investors directly.
23 Not to shift blame. It was a Jade Private Wealth
24 meeting with investors and then I had monthly
25 meetings with them disclosing the financials of the

1 company and then you.

2 But to answer your question, I never
3 went -- since I was not soliciting the deals
4 directly with a lot of investors, I did not tell
5 them, guys, I have a Range Rover, I have personally
6 borrowed from the company, no. To answer your
7 question, no, I did not.

8 Q Did you tell your investors that you were
9 going to use \$98,000 of investor money to give a
10 loan to your brother? To give loans to your
11 brother?

12 A It was not a loan. It was repaying the
13 note back. He had lent money to the company before
14 I did the offering, so he -- this is -- let me take
15 a step back.

16 Before we did the offering, he also lent
17 money to me as well as to the company. Some of them
18 were documented, some of them were not documented,
19 and that's where the misunderstanding from FINRA
20 from QuickBooks come as well. So for the purposes
21 of settling and signing off, I will agree with what
22 you have just said.

23 Q Do you understand that this is a different
24 body than FINRA?

25 A Yes, I understand.

1 Q And FINRA may have reached findings that
2 are completely different or separate from findings
3 that this Court and this Commission find, do you
4 understand that, as to this proceeding?

5 A Okay.

6 Q Do you understand that?

7 A I understand that.

8 Q I understand -- and we'll get to it --
9 you've appealed the FINRA decision, but the facts
10 and the findings here are facts and findings that
11 this Commission and to some extent, when necessary,
12 this Court will be making totally irrespective of
13 what FINRA did. Do you understand that?

14 A I understand that. But I also understand
15 that SEC and D.C. government, to that extent as
16 well, have pretty much taken everything in the
17 complaint and summed it up in their case against me.
18 So it's pretty much one of the same.

19 Q Well, they're the same facts.

20 A They are the same facts. That's what my
21 point is. So when you bring up a point and I give
22 you an explanation, because that point arises from
23 FINRA's investigation, which was done in two weeks.
24 Let's put it in context.

25 Q The OIP alleges facts based on conduct

1 that you engaged in, right?

2 A Right.

3 Q So it's not based on FINRA's
4 investigation. It's based on the acts that you and
5 your colleagues and your company engaged in.

6 A Okay.

7 Q You understand that, right?

8 A I understand that.

9 Q Paragraph 16 of the OIP, Exhibit 351,
10 paragraph 16 reads, "In reality, STI and Ahmed
11 misused the proceeds" -- investor proceeds -- "for
12 numerous undisclosed purposes, including: D, paying
13 approximately \$98,000 in interest-free, unsecured,
14 and undocumented loans to Ahmed's brother."

15 Did I read that correctly?

16 A That's correct.

17 Q And you agree that that's the facts that
18 are asserted in the complaint, correct?

19 A I agree with you and I think every single
20 piece of document that you will show me I will agree
21 to it. I will not deny it. I will say this 100
22 times. So you and I can sit here all day long and
23 giving excuses about -- I am telling you, I have
24 signed off on it. And I will agree to every single
25 thing I have signed off on.

1 that?

2 A Yes. And then we restructured the notes

3 as well. We followed up with the conversation,

4 that's what he said as well.

5 Q Did you tell Mr. Khokhar that the reason

6 you had cash flow problems was because you were

7 using \$800,000 of investor money to pay your

8 personal expenses?

9 A I don't recall if I had the conversation

10 with him and I may have. You asked him the same

11 question and you saw the answer.

12 Q I'm asking you, as you sit here now, can

13 you tell us that you told Mr. Khokhar that you

14 couldn't make the interest payments because you had

15 a cash flow problem because you were using \$800,000

16 of investor money on personal expenses?

17 A No, I did not and let me clarify again. A

18 lot of this money was pre-raising money through

19 the -- the impression you're giving is all of the

20 \$800,000 came from the capital that I raised through

21 PPM and that is incorrect. If you look at my notes

22 and if you look at documents that I gave you, a lot

23 of that money preceded the PPM as well. I don't

24 know what that exact number is. You should have

25 those documents. I already gave you those.

1 From the inception of Success Trade

2 Securities in 1999 to the FINRA action in 2013, the

3 totality of my loans are \$800,000, which as of today

4 have been repaid. And I don't know what the exact

5 number is. Not all of the 800,000 came from the

6 PPM. If you want me to --

7 MR. SCHULTZ: Your Honor, I mean -- I know

8 I've already made the point, but we just would

9 object to these answers that are inconsistent with

10 the facts that are asserted in the OIP and to the

11 extent you can, instruct the witness not to assert

12 facts that are inconsistent with them or just to

13 reserve it for questioning by his counsel.

14 JUDGE PATIL: I decline to do so because

15 one of the important elements of this proceeding is

16 to understand his acknowledgment of the extent of

17 his wrongdoing and his acceptance of responsibility,

18 and also, to go into the other factors, extenuating

19 circumstances, other issues. And I think that this

20 testimony speaks to a number of the Steadman factors

21 and I'm going to allow him to continue in this way.

22 MR. SCHULTZ: Thank you, Your Honor.

23 BY MR. SCHULTZ:

24 Q So you're saying that that \$800,000 wasn't

25 from the PPM and investor proceeds. That's your

1 testimony now?

2 A Not all of it.

3 Q Not all of it.

4 A And let me please clarify. Just one

5 second. One second, please. I'll go back. 1999 is

6 when I started my broker -- I was approved and

7 registered with the SEC. Till then, again, you look

8 at my taxes that I gave you. You have my tax

9 returns. I did not pay myself a lot of money. And

10 if the company would make \$40,000 month one, I would

11 write myself a check for \$5,000 or \$2,000. I would

12 not borrow against the investment. That's another

13 perception that there is. I would borrow against

14 the profit that the company, the broker-dealer would

15 make.

16 If you license a software to broker A, he

17 gave us a check for \$10,000, I would borrow against

18 the income of the company, not that investor A gave

19 me \$100,000, from there the next day I wrote a

20 check. And you have access to all of my bank

21 account statements. And if I had anything to hide,

22 in May of 2013, I would not walk into this office

23 voluntarily and give you my tax returns, my bank

24 statements and go over every single financial

25 question you had. Why would I hide something? Why

1 would I do that?

2 Q Getting back to my question, which was,

3 you are now saying that the proceeds -- excuse me,

4 the \$800,000 was not just from investor proceeds; is

5 that correct?

6 A That is correct.

7 Q The OIP in paragraph 16 reads, "In

8 reality, STI and Ahmed misused the proceeds for

9 numerous undisclosed purposes, including: Paying at

10 least \$800,000 of Ahmed's personal expenses,"

11 listing a number of the items.

12 So I'm just wondering, are you now saying

13 that's not true? That's false?

14 A I am not denying that. I have told you

15 several times I am signing off on it. I agree to

16 it.

17 Q But now your testimony is inconsistent.

18 A No, I'm giving you explanation. That's

19 all. I will tell you 100 times I have signed off on

20 it. I agree to it. And I'm just -- you've asked me

21 a question. I'm telling you the thought process

22 behind what happened. Regardless of what happens, I

23 have agreed to it. So I admit that that is my

24 mistake or whatever you want to call that. I agree

25 to it.

1 **Q** So in the OIP that you attached to your
2 settlement offer that the Commission issued, you're
3 saying X, I misused the money to pay \$800,000 of
4 personal expenses and now you're coming in here and
5 saying not X or not totally X, it's actually, you
6 know, half of X.

7 **A** None whatsoever. I am signing off on it,
8 I've agreed to it and on numerous occasions in my
9 discussions that I had Adam and Marilyn and
10 everybody else, I would tell them my side of the
11 story, how angry I was, how angry that I felt I have
12 been singled out, discriminated against, how the bar
13 has been raised for me, how for everybody else
14 they're getting away with murder, on numerous
15 occasions.

16 **So, no, I am not denying anything. I**
17 **stand by every single thing that I signed off on. I**
18 **stand behind it, sir.**

19 **Q** Did you tell Mr. Khokhar that you were
20 using investor money to pay \$98,000 to your brother?

21 **A** No, I did not.

22 **Q** Did you tell Mr. Khokhar that you were
23 using investor money to make \$1,300 Range Rover
24 lease payments?

25 **A** No, I did not.

1 other investors?

2 **A** I don't recall. That part, I may have.
3 I'm not sure, so I don't want to guess.

4 **Q** And just to make it simple, all the
5 questions I just asked you about what you disclosed
6 to Mr. Khokhar, did you disclose that information to
7 Mr. Davis? Did you disclose any of how these
8 proceeds were improperly used?

9 **A** Some of them I may have; some of them I
10 may not. I'm not sure. I don't want to guess, so
11 I'm not going to guess.

12 **Q** You procured and provided investors with a
13 misleading valuation of BT Trade that you had a
14 consultant put together, right?

15 **A** Can I elaborate or is it just yes or no?
16 Because I signed off on it, so it's a yes, but
17 there's an answer behind it that's not misleading.
18 It's FINRA's thought process it's misleading, but
19 it's not. But I have signed off on it, so I will
20 say I have agreed to it.

21 **But the fact of the matter is that**
22 **valuation was done by an independent third-party**
23 **investment banker, who was harassed and subpoenaed**
24 **by FINRA to come and testify. And those valuations**
25 **were done on forward-looking projections just like**

1 **Q** You considered Mr. Khokhar to be an
2 investor, right? Is that fair? Did you think he
3 was an investor?

4 **A** Yes.

5 **Q** But in fact, he actually only loaned money
6 to the company, right?

7 **A** Correct.

8 **Q** He wasn't part of the STI promissory note
9 process that's at issue in this lawsuit, correct?

10 **A** Right. Rephrase that. I'm sorry, say
11 that again.

12 **Q** He was not one of the people who did the
13 STI notes that are at issue in this lawsuit,
14 correct?

15 **A** I think that amount is included in this, I
16 believe. Again, I'm not sure. I think the total
17 amount that's raised is part of this.

18 **Q** Did you tell Mr. Khokhar, at any point in
19 time that he was involved with you, that you were
20 using investor money to make undisclosed \$1.25
21 million payments to Jade and Jeanette Brahmhatt?

22 **A** I'm not sure. I may have. I don't recall
23 that. I may have disclosed that to him.

24 **Q** Did you tell Mr. Ahmed that you were using
25 investor money to make \$4 million note payments to

1 any valuation is done. Amazon is trading at
2 200-plus times value towards its multiple. Is it
3 valued at that amount of money? No, it's not.

4 **So to answer your question in a short –**
5 **yes, I signed off on this document. I stand behind**
6 **it. But that valuation stands corrected. It was**
7 **the right valuation of the company as far as the**
8 **amount of money that I've invested in building the**
9 **platform and in looking at the current market**
10 **valuation. I did not do the valuation. Felix did.**
11 **Elmcore Investments did.**

12 **Q** It was a valuation of BT Trade, correct?

13 **A** That's correct.

14 **Q** You went and then represented to STI
15 investors that you had a valuation of \$47 million,
16 correct?

17 **A** That is correct.

18 **Q** You didn't tell them it was a valuation
19 for BT Trade, though, did you?

20 **A** I believe I told them that – no, no, I
21 told them the valuation was for the software. From
22 what I understand and recall, it's been a while, but
23 I believe it was the software. The accounts were
24 what's separately – mind you, I had over 10,000
25 funded accounts and if you look at – don't take my

1 word. Look at the acquisition of Ameritrade
2 acquiring Datek. I believe they paid \$4,500 per
3 account. And if you value my 10,000-plus funded
4 accounts at \$2,000, that was the value of my
5 broker-dealer accounts at over \$20 million.

6 That's why Riaz was buying it for \$10.5
7 million, until FINRA intimidated, threatened and
8 harassed him not to buy the broker-dealer. My
9 investors would have been paid off.

10 Q I'm going to direct your attention to
11 paragraph 28 of the OIP that was attached to your
12 offer in Exhibit 351.

13 A Yes.

14 Q Paragraph 28, "Ahmed and STI's registered
15 representatives created the false impressions that
16 the valuation was of STI, not BT Trade, and that the
17 valuation took into account STI's financial
18 condition."

19 Did I read that correctly?

20 A Yes, sir.

21 Q So are you now disputing that you gave
22 investors the false impression that the valuation
23 was of STI and not of BT Trade?

24 A No. Success Trade, Inc. was the holding
25 company and the holding company owned the software

1 case, yes. I misspoke, but that is correct, yes.
2 The holding company owned the software company,
3 but -- how is it? Playing with words, but at the
4 end of the day, same thing.

5 Q You would agree that the
6 misrepresentations you made to investors about the
7 valuation were material because they provided a
8 grossly inflated impression of STI's value and STI's
9 ability to pay the principal and interest on the STI
10 notes, correct?

11 A I'm sorry, repeat that again.

12 Q You would agree that the
13 misrepresentations you made to STI's investors about
14 the valuation were material because they provided a
15 grossly inflated impression of STI's value and of
16 STI's ability to pay the principal and interest on
17 the STI notes.

18 A I've agreed to it. I signed off on it. I
19 will give an explanation, but probably right now as
20 I've already disputed the valuation, but I agreed to
21 it. I signed off on it.

22 Q Now, you told STS's registered
23 representatives that STI was going to list on the
24 German stock exchange in March or April 2013,
25 correct?

1 company and the broker-dealer. So it owned both
2 entities. And I'm going to stand by what I -- I
3 told you a million times, I stand behind what I
4 signed. But Success Trade, Inc. was a holding
5 company. That holding company owned STS, Success
6 Trade Securities, and it owned BT Trade. So it
7 owned both entities under one -- it owned both
8 companies under one entity.

9 Q So you did tell investors that the
10 valuation was of STI and not of BT Trade.

11 A Right, Success Trade, Inc. But if you ask
12 what the software was worth, I would say \$47
13 million. It's one or the other because it's a
14 holding company. The holding company owns the
15 software company and the broker-dealer.

16 Q The valuation report that you commissioned
17 only valued BT Trade, right? It didn't value the
18 holding company, STI.

19 A No, it did not. It would be higher, but
20 that's correct, yes.

21 Q You then went out and told investors
22 that -- or gave them the impression that the
23 valuation you had was for STI and not for the
24 subsidiary company, correct?

25 A I stand corrected and that builds a good

1 A Somewhere in the -- by June.

2 Q Are you sure it wasn't March or April of
3 2013?

4 A Could be. It's been a while, so it could
5 be, yeah. But I think because of the FINRA action,
6 it was pushed back, yes.

7 Q Well, let's look at paragraph 30 of the
8 OIP, which says -- you stated in the middle of the
9 paragraph, "Ahmed also stated that he expected the
10 listing to take place on a German exchange in March
11 or April 2013."

12 Does that refresh your recollection that
13 that's the time frame?

14 A Right. I'm sorry, which -- yes, in March
15 or April, yes. That's correct, yes.

16 Q And at the time that you conveyed to STS's
17 representatives that the stock would trade at
18 approximately \$6.40, more than triple the conversion
19 price that had been offered to note holders,
20 correct?

21 A Yes.

22 Q At the time, however, STI had not applied
23 to any exchanges registered or taken any steps
24 towards registering or identified a market maker for
25 the stock, correct?

1 A Incorrect. I signed off on it. But if
2 you want an explanation, I'll give you. I signed
3 off on it, so I don't want to get into a dispute
4 about what I said. You have to decide if you want
5 me to give an explanation, yes or no.

6 Q You keep saying that you signed off on
7 it --

8 A Right.

9 Q -- and then you say, but I'm going to tell
10 you something different or, you know, it's
11 incorrect, but I signed off on it. What do you mean
12 by that? What do you mean by I signed off on this
13 document? Because it seems like you don't
14 actually -- you're not agreeing to the facts.

15 A I am agreeing to the facts, but when you
16 put me under oath and you tell me what you signed
17 off on it, it's correct, but there's an explanation
18 to everything I did. And that's something I've told
19 FINRA on the record, I've told off the record with
20 the discussion I had with the SEC, with numerous
21 people, with the D.C. government as well.

22 I'm signing off on it because again, I'll
23 say again, I need to move on and get back with my
24 life and make money so that -- and not get hopefully
25 barred and give money back to my investors. That's

1 the settlement agreement I had with D.C. government.
2 Their wording was different. But I agree to it,
3 sir. I'm under oath and I say that I agree to every
4 single thing that's written here. Do you want to
5 hear my side of the story? I'll give you my side of
6 the story. I can't fight SEC. I can't fight the
7 U.S. government.

8 Q So if I understand what you're saying,
9 while you've agreed to this, you don't actually
10 think you did anything wrong.

11 A I did things wrong. I made mistakes. In
12 hindsight, I should have done things differently. I
13 absolutely admit I made mistakes. I've made a lot
14 of mistakes. I wish I would have done things
15 differently, but the fact -- the word that really --
16 every day I think about it, scinter, intentionally.
17 Not even for a second did I want to mislead my
18 investors. Not even for a millisecond.

19 That's 30 years of my life in this
20 country. I've worked my butt off, not to be labeled
21 as a fraud guy. No, incorrect. I signed off on it
22 because I have to. I have no choice. Either that
23 or you fight SEC for the next five -- I don't have
24 the resources. I can't. I'm not Goldman Sachs. I'm
25 not Goldman Sachs where they commit fraud every

1 what I want to do. But some of these facts, again,
2 these are all coming from -- I understand the SEC
3 did its own investigation, but this is all FINRA.

4 And you're telling me straight up in two
5 weeks -- they raided my office on March 7th, 2013 at
6 9:30 a.m. and in two weeks, I had on the record -- I
7 had to go to London to sign a structure deal with
8 CMC to close that transaction or for further
9 discussion and then come back on the record at the
10 end of March with FINRA. And you're telling me --
11 please let me finish -- that in three weeks, they
12 went through hundreds of thousands of emails. They
13 called Westpac Bank, they called CMC Markets, they
14 called Peter Cruddas and they said this is all
15 fraud? Absolutely incorrect.

16 Again, for the purposes of the settlement
17 letter -- and you asked Goldman Sachs. I wish you
18 would have asked Goldman Sachs this question, you
19 asked Credit Suisse this question. They signed off
20 on documents knowing very well before signing off
21 that they just wanted to get settled and move on.
22 That's what I'm doing. I'm signing off. I'm
23 admitting to it.

24 First it was supposed to do with our
25 admission or denial. That did not work because of

1 week, they settle, they go on, they commit fraud. I
2 can't do that. I'm one man. And that man sitting
3 next to you is a friend of mine who's helping me
4 with this case. That's the difference. I don't
5 have unlimited resources to take you guys on. That's
6 the problem. It's not a fair justice system, but
7 I've got to deal with it.

8 Q Did you intentionally misuse investor
9 money to pay your personal expenses?

10 A Based on what I signed off on there, yes.
11 But if you ask me the question, no, I did not. But
12 what I signed off on, yes, I did.

13 Q Did you intentionally misuse investor
14 money, new investor money to pay earlier investors?

15 A In some cases, I did, yes.

16 Q Did you intentionally misuse investor
17 money to give \$98,000 to your brother?

18 A Not intentionally. I don't even know what
19 percentage of it came from the PPM raise. Some of
20 that came from, again -- you talk about the officer
21 loan. And I need to clarify that. That's very
22 important. It is important. What you've asked me,
23 a lot of that was from the revenue that the company
24 generated. The perception that's given here is you
25 give money back, investor A gave money, you wrote a

1 check, yes.
 2 **Q** So you're disputing that you misused --
 3 **A** I'm not disputing. No. I'm giving you
 4 explanation. I signed off on it. I stand by
 5 everything. I was giving you an explanation, sir.
 6 That's all I'm doing. I cannot renege on what I've
 7 signed off on. I agreed to what I have signed off
 8 on. I'm just giving you my side of the story what
 9 happened. That's all.
 10 If the judge agrees, that's wonderful. If
 11 he doesn't, more power to him. But I just need him
 12 to hear my side of the story, that's all. Because
 13 for the last three years, not one single person has
 14 heard my story. FINRA had their bias, racial bias
 15 against me. SEC had its own agenda. D.C.
 16 government has own agenda.
 17 During my NAC hearing, I wanted to speak
 18 up. I was not allowed to speak. So never, ever
 19 have I been able to -- there were reporters who
 20 called me and said, listen, we need you to talk to
 21 us. I said, no, I will keep my mouth shut, as
 22 painful as it was for me seeing my name being
 23 trashed day in and day out. Google my name right
 24 now. The first thing that comes up is Ponzi scheme.
 25 That's not something you want to hear. That's not

1 something I went to school for.
 2 **Q** But you, as someone in the industry, know
 3 what a Ponzi scheme is, right?
 4 **A** Yes.
 5 **Q** And a Ponzi scheme, among other things, is
 6 when you take new investor money and use it to pay
 7 earlier investors, right?
 8 **A** And the underlying asset? There is no
 9 underlying asset. Ponzi scheme is fraud. Ponzi
 10 scheme is where the underlying company doesn't
 11 exist. There is no asset. There is no value. If
 12 you want to define -- and if you're going to say
 13 that, then also other -- this is the cost of doing
 14 business. You issue debt, you retire debt and that
 15 was in my PPM.
 16 Again, my mistake. I should have done a
 17 better job of elaborating on that. I will be doing
 18 this in a better way. I did not. My mistake. I
 19 own up to it, sir. I own up to it. I made that
 20 mistake. But, yes, out of what I raised, part of
 21 that went to investors. I don't deny that. But did
 22 all of that go to investors? And that's what Ponzi
 23 scheme is. You get money from investor A, you give
 24 money back to investor B.
 25 Look at FINRA's complaint. That's what

1 they portray. So they realize they cannot defend
 2 that, all of a sudden the case changed to failure to
 3 disclose. From failure to disclose, it changed to
 4 my personal things. Because the more I stood up and
 5 fought, the more it became personal. I'm sorry to
 6 go off on a tangent, but I just want to answer your
 7 question because I'm trying to give you an
 8 explanation of what happened.
 9 Again, you can put this in front of the
 10 screen 100 times and I will agree to it. I signed
 11 off on it. I won't deny that.
 12 **Q** I want to come back to the Australian
 13 broker-dealer point that we talked about earlier.
 14 **A** Yes, please.
 15 **Q** You communicated to STI note investors
 16 that STI would acquire an Australian broker-dealer,
 17 I don't recall the name of it --
 18 **A** CMC Markets.
 19 **Q** -- CMC Markets by April 2013, correct?
 20 **A** Yes. I don't have -- yeah. Okay. Go
 21 ahead.
 22 **Q** But you knew at the time that you couldn't
 23 complete that acquisition by April 2013 because you
 24 lacked the funds or financing commitment to fund the
 25 purchase price and had no reasonable expectation of

1 obtaining the money, correct?
 2 **A** Based on what I signed off on, that is
 3 correct. Based on the not signing off, incorrect
 4 because you have the letter, I gave you the letter
 5 from Westpac Bank saying they have the funding. They
 6 signed off on it. Westpac Bank, it was 5 and a half
 7 or 6 million Australian dollars and they were in the
 8 office of CMC Markets doing their due diligence when
 9 FINRA walked into my office.
 10 So please -- let me finish, please. To
 11 answer your question, for the settlement purposes,
 12 yes. But if you pick up the phone today and call
 13 Westpac Bank -- and I was hoping FINRA would call
 14 them and I was hoping SEC would call them. Gadens
 15 was a law firm I retained in Australia. I went
 16 there myself. I retained a law firm in Australia.
 17 Westpac Bank was -- not was -- they gave a letter, 5
 18 and a half million dollars approving that loan. They
 19 were doing the second round of due diligence for
 20 additional funding.
 21 So the perception in the media and FINRA
 22 is you didn't have the money. And I did not have --
 23 the unfortunate, the sad part is I didn't have to
 24 spend a single penny from Success Trade. This was
 25 coming from the cash flow of CMC Markets. That's my

1 explanation based on what I've written.
 2 Whatever you have there, I signed off on
 3 it. I'm not going to dispute that, sir. I'm not.
 4 But I wish somebody would have called and done a
 5 little bit of investigation.

6 **Q So you wish FINRA had called and done some**
 7 **investigation; you wish D.C. would have called and**
 8 **done some investigation; you wish we would have done**
 9 **some investigation; is that right?**

10 A I think you guys are pretty much reacting
 11 to what FINRA did. And you guys are actually
 12 reacting pretty much to what I did with the SEC
 13 government. When I sat down with the SEC
 14 government, you guys came back to me and said
 15 listen. We've made up our mind, this is what we're
 16 going to do.

17 So for two years, I corresponded, I met
 18 these guys quite often -- not quite often, but I
 19 would share documents with them if they would ask me
 20 anything. And they're sitting right here. Ask
 21 them. Did I cooperate with them? Did I voluntarily
 22 come to them without an attorney and share
 23 information with them? Was there ever, ever even
 24 for one day when they called me, I never came back
 25 to them. Even if I was traveling around in

1 Pakistan, where I was, I got back to them.

2 You want to judge my character, please ask
 3 them. Did I ever for a second try to hide anything
 4 from them? They're sitting right next to you. Ask
 5 them. That defines a person's character when your
 6 back is against the wall. The whole world is
 7 looking at you in a very bad way. Never for a
 8 second -- and I was dealing with three different
 9 agencies. And the majority of the people would have
 10 killed themselves, what I went through. And I stood
 11 up and I took everybody on and I answered their
 12 questions honestly.

13 So if you want to ask about my character,
 14 ask your colleagues. Maybe they will disagree with
 15 me, but ask them. Did I -- every time they called
 16 me, did I answer the questions? Did I provide them
 17 with the documents that they needed immediately or
 18 as soon as I could? Did I cooperate with them?
 19 Please ask them that. And if I did not, maybe they
 20 will say I did not. Maybe that's the case.

21 **Q Getting back to my question, you are**
 22 **troubled that FINRA, D.C. government and the SEC**
 23 **never called this bank in Australia; is that right?**

24 A I am not troubled. I am dismayed. I am
 25 shocked.

1 **Q You had a hearing with FINRA, right?**

2 A Yes.

3 **Q You didn't call the bank, did you? Did**
 4 **you call anybody from the bank?**

5 A Why should I call them? You are the one
 6 who are accusing me of something horrible. You are
 7 the one who are telling me I did all the horrible
 8 things. I thought you would have done -- in
 9 hindsight, maybe I should have called the bank and
 10 said, yes, can you please tell me, did you send this
 11 letter?

12 But I truly believed that a regulatory
 13 agency like FINRA would have the wherewithal to
 14 contact all these people. They were on a mission to
 15 get me. They were on a mission to hang me. That's
 16 what they wanted to do. They didn't do any of those
 17 things. They could have done that. Why should --
 18 you are accusing me of a horrible act. It is your
 19 responsibility to do your due diligence and look at
 20 the facts. FINRA had the option of -- they tried to
 21 bring a lot of investors to the hearing. How many
 22 showed up? Zero.

23 **Q You didn't try and bring the bank as a**
 24 **witness in this proceeding, did you?**

25 A No, I did not.

1 **Q You could have.**

2 A I'm not sure, but I could have. Yes, I
 3 should have. But they are in Australia. I have no
 4 problem. Let's just -- during the hearing, I will
 5 call them and ask them. Not a problem. Let's do
 6 it. I'm for it. I am for it. Let's do it. Tell
 7 me a date and time. I will bring the person that
 8 was -- his name was Kennedy, I believe. Let's do
 9 it. I am for it.

10 Let's bring Peter Cruddas under hearing.
 11 Let's ask him what his discussion was. Let's bring
 12 CMC Markets. Let's bring Ernst & Young. Ernst &
 13 Young was handling this deal. They did their due
 14 diligence on my company. Let's bring them as well.
 15 I am for it. Tell me the day and time, I'm there.

16 **Q The date and time is today. We've had**
 17 **this hearing scheduled for months. You had your**
 18 **opportunity. You made no effort to bring anybody.**

19 A The effort that I made was for my
 20 character and I brought those two people in. If you
 21 would have told me we need other people, let's
 22 extend it for another six months. Let's bring them
 23 again.

24 **Q Can you look at Exhibit 352 in your**
 25 **binder. Have you got 352?**

1 MR. SAACKE: Yeah. I'll object as
 2 attorney-client privilege and really not relevant
 3 to --
 4 JUDGE PATIL: Sustained.
 5 BY MR. SCHULTZ:
 6 Q Now, you claim that you've repaid all
 7 these officer loans, right?
 8 A Yes.
 9 Q That's your testimony?
 10 A Pretty much all.
 11 Q You have not -- you've never offered any
 12 evidence to that effect, correct?
 13 A I think I have. I have. I think I've
 14 given a copy of that. I believe so. And I believe
 15 I've given a copy of that during my hearing
 16 decision, my hearing to the FINRA panel. I believe
 17 so.
 18 Q As part of this settlement you reached
 19 with the SEC, you are required to disgorge \$12.9
 20 million, correct? \$12.7 million.
 21 A You mean the fine or are you talking
 22 about --
 23 Q The disgorgement amount.
 24 A Right.
 25 Q And you were also ordered to -- I think it

1 might have been 12.2. I apologize.
 2 You were also ordered to pay prejudgment
 3 interest of around \$1.5 million, correct?
 4 A Right.
 5 Q And on top of that, you were ordered to
 6 pay a civil penalty of \$12.7 million, correct?
 7 A Yes.
 8 Q To date, you've had \$900,000 from the sale
 9 of the broker-dealer applied to that number,
 10 correct?
 11 A Right.
 12 Q Have you made any other payments on that
 13 outstanding \$26 million?
 14 A None whatsoever. This is why we are
 15 having this hearing, so that I can get back on my
 16 feet, go back to work and pay my investors back. I
 17 don't know about -- the fine is very severe and we
 18 will hopefully have a discussion how they come up
 19 with that -- how SEC comes up with a \$12 million
 20 fine against me, but you guys don't come up with
 21 that kind of fine against Goldman Sachs.
 22 So that's astonishing how you guys came up
 23 with the number, but that's a separate discussion. I
 24 signed off on it. So, yes, to answer your question,
 25 no, I have not. I need to get my life back

1 together.
 2 Q Are you currently working at all?
 3 A No. I'm trying to set up ventures. I'm
 4 trying to do things that I want to do.
 5 Q Since the OIP was entered, you have paid
 6 not \$1 towards the amount that you were ordered to
 7 pay; is that correct?
 8 A That is absolutely correct.
 9 MR. SCHULTZ: Can I have a moment, Your
 10 Honor?
 11 JUDGE PATIL: Yes, please.
 12 MR. SCHULTZ: That's all we have for now,
 13 Your Honor, but we'd obviously reserve questions in
 14 light of the clarifying questions Mr. Saacke may
 15 have.
 16 JUDGE PATIL: Thank you. We'll be back in
 17 10 minutes.
 18 (A brief recess was taken.)
 19 MR. SCHULTZ: We forgot to move in Exhibit
 20 394, the opening brief that he filed, and recognize
 21 that it's a public document. We'd like to have it
 22 in the record just for --
 23 JUDGE PATIL: I mean, this is in the
 24 record. It's just a pre-hearing brief. You want it
 25 as an exhibit. For what reason? You're welcome to

1 cite from it and quote from it. And it's a
 2 pre-hearing brief. I don't think it's an
 3 evidentiary exhibit.
 4 I'll give you the same dispensation as to
 5 the FINRA appellate document that you wanted to as
 6 to whether those sort of properly become evidence of
 7 some things. Here I also think, just for your
 8 reference in the post-trial filings, I understand
 9 where you're going with a lot of points, but this is
 10 a two-page long pre-hearing brief. It obviously
 11 focused, I think very concisely, just on arguments
 12 that they thought would help them in the proceeding.
 13 I don't think it purported to be an
 14 expansive document which actually worked through
 15 point by point the factors in the Steadman analysis
 16 and so I feel like I would probably be unlikely to
 17 say, because they didn't even talk about Steadman,
 18 that them not mentioning a factor would be as
 19 important as it would have been if they had filed a
 20 brief or a post-hearing brief that said here are the
 21 six factors in Steadman, but because we didn't do
 22 anything wrong, we win the case. Then I think we
 23 would sort of have cemented, you know, a better
 24 argument. And that's just my view without deciding
 25 the issue, obviously, since I haven't gone through

1 finally my hard work is paying off. My software is
2 work -- I thought it was worth a lot more than that,
3 but comparing to what the industry was, \$47 million
4 was not bad. That was just the software. And mind
5 you, I had other funded accounts. Those accounts
6 were worth a lot more than that. That did not
7 matter to FINRA. What mattered to them was let's
8 get this guy. Let's get him.

9 And the most critical other point is four
10 months before that, I had an audit from the
11 Philadelphia district of FINRA. I gave them all of
12 my PPMs. I gave them all of my notes. I gave them
13 all of my financials. And this did not happen once.
14 This happened five to six times during when I was
15 raising capital. I had audits with FINRA. And they
16 would go to the branch office of Jade, which was in
17 McLean. And just to make sure I don't do anything
18 wrong, I hired a former Department of Enforcement
19 officer from FINRA, Chae Yi, as my chief compliance
20 officer.

21 Now, if I wanted to defraud and screw
22 investors, do you think I would do all those things?
23 And I would hope that at some point FINRA would give
24 me guidance. That's what they do during audit. They
25 guide you. Fuad, this is wrong, this is wrong, this

1 anybody get barred? Did anybody go to jail? Did
2 anybody get sanctioned? No. But I am being barred,
3 my name is destroyed, I'm calling a Ponzi scheme.
4 Come on, that's fair? You call that American
5 justice? What kind of justice is that?

6 And I'm being labeled that this guy who
7 has destroyed investors' life -- FINRA -- I accept
8 responsibility. FINRA is responsible. They rushed
9 to judgment. They should have taken their time just
10 like they did with -- FINRA will never take on
11 Goldman Sachs because so many percent of their
12 revenues come from these investment banks. Their
13 board of directors are the former and current
14 employees of these investment banks. Why would they
15 take them on? The CEO of FINRA makes \$2.5 million.
16 Why would he take them on? He can't. He's
17 affecting his own paycheck.

18 So obviously, they have to show the world
19 that we are doing our job as regulators, guys. We
20 are right here to protect the American public. And
21 guess what? We got this bad guy. He was destroying
22 the NFL players. This is sexy. This is NFL players
23 and a guy from Pakistan. What better way to sell
24 the story. What better way to tell the world we got
25 a guy. Because they failed. The regulators failed

1 is wrong. They never even -- six months ago, they
2 could have come to me and said, Fuad, we've got
3 issues with this. We've got a problem with this
4 PPM. What the hell are you doing? You've got to
5 stop this. They never mentioned this to me.

6 Again, I'm not trying to put the blame on
7 somebody, but at least they would have -- that's
8 what audits are for, to help you understand. Guys,
9 you're not on the right track, right? They never
10 did that. They never questioned any of the
11 documents. That's why I'm not disagreeing with the
12 settlement documents, but there's a story behind it.
13 I don't have the bandwidth to take on the U.S.
14 government. I can't fight SEC. I'm not Goldman
15 Sachs. I'm not, you know, Credit Suisse Bank of
16 America, Merrill Lynch. They still commit fraud.
17 Every month you hear a story about them. They just
18 settled on CDOs and CMOs. Next month you find out
19 about customers on market orders and limit orders
20 and guess what happens? No action. What do they
21 do? They just sell off those market making
22 operations. They get away with crime. Just give
23 them money to commit more fraud.

24 Here I'm being made an example of. Last
25 week Goldman Sachs settled for \$5.1 billion and did

1 in the last year just to catch any investment banks.

2 They have to show, they have to prove,
3 they have to earn their paycheck. What better way
4 than to come after me. That's what this is about. I
5 now will admit I made mistakes, but did these
6 mistakes rise to this level? No. You're telling me
7 Goldman Sachs and Credit Suisse and Bank of America
8 and John Corzine, who commingled customers' funds,
9 the guy is running around free. Nothing happened to
10 him. That's the ultimate sin, commingling
11 customers' funds. He is running around. Why?
12 Because he's a white man and here is a brown
13 Pakistani Muslim who is running around, that's why?
14 What is it? So going back to the point, that's what
15 has happened.

16 **Q** All right. I want to go back to
17 basically -- I mean, you've described pretty much up
18 to the point of the raid by FINRA and then the
19 ultimate effect thereafter. We had Riaz Khokhar
20 testify earlier today as to his desire and ultimate
21 attempt to purchase the assets of the broker-dealer.
22 Can you just briefly talk about your dealings with
23 him and your attempts to salvage your customers'
24 investment?

25 **A** Two good points. Before -- again, just so

1 that -- I wanted to make sure that my investors are
2 made whole. That was the most important thing.
3 FINRA's intentions were never right. They wanted to
4 harm me and they wanted to prove their point.

5 Look at the press release that they did in
6 April/May, the very first release in 2013. They
7 said they got a cease and desist against Success
8 Trade Securities. There never was a cease and
9 desist against Success Trade. They intentionally
10 did that. And I brought that to the attention of
11 the SEC as well. And I'll tell you what impact it
12 had on my business.

13 Success Trade, Inc. was the holding
14 company. The cease and desist was signed by Success
15 Trade, Inc. That meant I would not raise any more
16 money and I would not convert the debt into equity.
17 FINRA did a press release saying there's a cease and
18 desist against Success Trade Securities. That meant
19 all of my -- it had a direct impact on my
20 broker-dealer.

21 My clearing firm freaked out. All the
22 market makers that I was writing orders to, they
23 freaked out. They said, Fuad, we got a problem.
24 Your broker-dealer is shut down effective today
25 because here's a press release from FINRA saying

1 the end, I was left with one or two market makers.
2 And even after that when I sold my firm two years
3 after the fact last year, I still retained the
4 majority of my accounts. We were still doing close
5 to 1,800 trades per day. We still had all those
6 accounts.

7 And to prove my point, had FINRA agreed --
8 and I'll go back to your point about Riaz. During
9 all this mess, I thought how can I make my investors
10 whole? Riaz was an investor, unfortunately from
11 Pakistan, but I said, Riaz, I will take this on. You
12 know, it will take on a big chunk of liability and
13 here I go, I'll make my investors whole, I will
14 fight FINRA on my own and at least my investors get
15 taken care of. If I wanted to screw my investors,
16 would I do that? No, sir.

17 FINRA did not like that. They went to New
18 York, took a train the next week when I gave them
19 the purchase and sales agreement and they
20 intimidated him. They harassed him and they
21 discriminated against him because somebody was about
22 to buy and make investors whole. What is
23 institutional racism? What did we learn last year
24 in Ferguson? That rules apply differently for
25 different people. For me, it's here. For everybody

1 that you have a cease and desist. I said, that is
2 incorrect. That is wrong. The cease and desist is
3 against Success Trade, Inc.

4 I called the department of Samuel Israel,
5 I called Jennifer Crawford. I pleaded and begged
6 with them. I said, guys, can you call Goldman Sachs
7 and tell them the cease and desist is not against
8 Success Trade Securities, it's against the holding
9 company? What was the answer? No. We will call
10 our market regulation and we will see what they can
11 do. While my whole oxygen, my whole business was
12 routing customers' orders to market makers. I
13 cannot internalize those orders because I was not an
14 ECN. I needed those market makers. And since I
15 refused to settle with FINRA, it angered them and
16 they wanted to make sure they come after me.

17 Then I called the SEC. I called them and
18 I said, Adam, this is what is happening with me
19 right now. Can you please interfere? Can you call
20 FINRA? Can you tell them that the cease and desist
21 is against Success Trade, Inc.? Help me. You
22 regulate FINRA. You've got to interfere or tell
23 them that what they're doing is wrong.

24 Nobody helped me. I lost Goldman Sachs. I
25 lost UBS. I lost Credit Suisse as market makers. At

1 else, it's right here. The bar for me is high.
2 Everything I do, the bar is high for me. Have I
3 been treated fairly? Absolutely, positively no.

4 So Riaz could have bought the investors.
5 By now, they would have been repaid back or they
6 could have been close to being repaid back and I was
7 going to help him. \$10.5 million, the total
8 settlement amount is \$12 million. I would have only
9 had to pay a million dollars. I would have come up
10 with it. Investors would have -- we would not be
11 sitting here today. But no, because FINRA wanted to
12 show the world that they are doing their job.
13 Because they failed to catch the major investment
14 banks, what better way to get press that we got a
15 Ponzi guy and guess what? We saved the NFL players
16 from this horrible guy who is going to go out and
17 screw you.

18 That was the moral of the story. That was
19 not to go out -- if they cared about investors, they
20 would have done all those thing. Forget about
21 listening to me. What is the right thing for -- I
22 can pick myself up. I'm single, no kids. I will
23 pick myself up. I don't mind working hard. I love
24 working hard. But the most important thing is my
25 investors. They had nothing to do with it. They

1 believed in me or they believed in Jade and then
2 Jade invested me. Riaz, Bill, these are -- I need
3 to pay these -- regardless of how long it takes, I
4 will pay them back. That's the most important
5 thing. I have to live with it every hour, every
6 minute, every second.

7 FINRA doesn't care. Those Department of
8 Enforcement attorneys who make close to \$300,000 a
9 year, they have to justify their salaries. How do
10 they justify their salaries? Not by taking on
11 investment banks. They have to work. They don't
12 want to have to work. They want to take on people
13 like me.

14 **Q How are you going to repay these**
15 **investors? How?**

16 A I want to get back, start companies, start
17 ventures and hopefully get one of the companies
18 listed. That's why it's very important that I'm not
19 barred. Hard work is not an issue for me. I've
20 always worked hard for the last 30 years and I will
21 continue to work hard.

22 **Q I believe it. But what everyone here and**
23 **I'm sure the judge needs to believe is that you're**
24 **going to do it. How are you going to do it? Do you**
25 **have any specific plans, steps that are starting to**

1 **formulate or gain traction?**

2 A I have ideas on the software industry
3 side. I have a few ideas that hopefully will come
4 true. I have also ideas on the FX side. I have
5 ideas on the broker-dealer side that I want to be
6 part of. That's all I know for the last 30 years or
7 last 25 years. That's all I know is financial
8 services. I'm good at that.

9 **Q Why is an officer and a director position**
10 **versus a bar going to help you in that endeavor**
11 **ultimately then pay off these investors?**

12 A Because I will be a part of a publicly
13 traded company or a funded company and I can go back
14 and show people, listen, I made mistakes, my name
15 has been cleared, I can be a part of a public
16 company. I would want my investors to be a part of
17 that company. Or I need to be a part of that
18 company so that I can cash out and pay my investors
19 back.

20 There are different ideas, different
21 deals, different structures I have in mind. Coming
22 from Pakistan, I will be spending a big chunk of my
23 time in Pakistan working on software ventures and
24 probably partnering with some broker-dealers here in
25 the U.S. as well. So I have a lot of ideas, but the

1 most important thing is for me to be able to get
2 back so that I can -- otherwise, I cannot pay my
3 investors back. That's all I know is securities
4 industry.

5 **Q How is an officer and director position**
6 **going to assist you in ultimately paying back these**
7 **investors?**

8 A Because if you're going to start a company
9 and you're going to be part of a publicly traded
10 company, people do their due diligence on you. They
11 want -- who is this person that they are investing
12 their money with? Who is this person? Is he that
13 bad of a person? Is he that horrible? I mean, I'm
14 not Goldman Sachs. I keep going back to Goldman
15 Sachs. They commit these horrible crimes or these
16 horrible acts every month. They get away with it.
17 But in my case, I can't afford that.

18 **Q You have this signed, issued document by**
19 **the SEC admitting to all of the wrongdoings here.**
20 **Okay? Are you going to present this to people to**
21 **let them know that if you're going to be an officer**
22 **and director of a company, that you have this on**
23 **your record?**

24 A Absolutely. Nothing wrong with it. We
25 made mistakes. That's what makes us a better

1 person. Nobody in this world is perfect.

2 **Q Are you going to dispute what's in there**
3 **to those people?**

4 A I will give them my side of the story just
5 like what I am doing today. I have been singled
6 out, I have been discriminated against. I
7 absolutely believe that. But what I've signed off
8 on here, I agreed to. And I think my case is about
9 overzealousness. My case is about rushing to
10 judgment. My case is about let's go out and get
11 this guy.

12 **Q Do you think your case at all about**
13 **mistakes you made?**

14 A Yes.

15 **Q Okay. Well, what do you think is bigger**
16 **when you're looking at scales? The mistakes you**
17 **made or the overzealousness of FINRA? It's**
18 **important.**

19 A I think the mistakes that I made as well,
20 that there were a lot of mistakes I've made. But
21 overzealousness of FINRA cannot be taken out because
22 they took things out of context. They have taken
23 things way out of context.

24 **Q Was there any overzealousness with respect**
25 **to the SEC in your opinion?**

1 considering the fact -- very important point --
2 markets in U.S. at that time were collapsing.

3 **Q Do you agree with me that in 2008, STI had**
4 **a net loss of more than \$600,000 and was in severe**
5 **financial distress?**

6 **A I agreed with it, sir. I signed off on**
7 **it, so I agreed to it.**

8 **Q And that was not disclosed -- that the**
9 **company was in severe financial distress was not**
10 **disclosed in the PPMs, correct?**

11 **A It was not disclosed in the PPM, yes. To**
12 **the Jade Private Wealth? Yes. But to the investor,**
13 **to the PPM, no, it was not.**

14 **Q And the PPMs, therefore, misled investors**
15 **about the strength of STI's business.**

16 **A I stand behind it. Absolutely correct.**
17 **That's a mistake I made. Big mistake.**

18 **Q You talked at some length about the rate**
19 **on FINRA and how unfair that was that they barged**
20 **into your doors and wanted to look at your books and**
21 **would not let you do anything, right?**

22 **A Not just my books, sir. My computers,**
23 **anything.**

24 **Q Your firm was a FINRA member, correct?**

25 **A Right.**

1 **Q And as a FINRA member, that gives FINRA**
2 **the right to come in and examine your books, doesn't**
3 **it?**

4 **A Really?**

5 **Q Doesn't it?**

6 **A Really? Does it give them the right to**
7 **barge in, push my employees back, harass them,**
8 **intimidate them? When was the last time Goldman**
9 **Sachs was treated like this? When was the last time**
10 **Credit Suisse was treated like that? I was treated**
11 **like a terrorist. Big difference, sir. Big, big**
12 **difference. Big difference. You don't barge into**
13 **somebody's office unannounced, literally push people**
14 **back. You don't do that.**

15 **With all due respect. I'm sorry I'm**
16 **raising my voice. That angers me. I understand you**
17 **have to defend FINRA. That's your body. For**
18 **goodness sake, try to be upfront. You were not**
19 **there. I was there. You don't treat people like**
20 **that. You don't put my accounts opening person**
21 **against the wall. And these were big people. Okay?**
22 **They were big people. They were pushing people**
23 **back.**

24 **I was in my office. I was slammed against**
25 **the wall. Do you do that? Is that how SEC goes in?**

1 **Slams people against the wall?**

2 **Q Sir --**

3 **A Is that how you look at books? Maybe then**
4 **I am wrong. I stand corrected. Maybe that is the**
5 **American way. You slam -- walk in to people, slam**
6 **them against the wall and tell them I'm going to**
7 **look at your books. My goodness.**

8 **Maybe like I said, they have two set of**
9 **rules; one for people like me and one for people**
10 **like you. But people like me, I'm used to this**
11 **treatment. Maybe I should get used to it and I**
12 **agree with you. Maybe. Thank you, sir, that's how**
13 **we treat them. Perfect. I am a second class**
14 **citizen. I admit that. That's how you treat**
15 **people?**

16 **Q You testified that FINRA threatened you**
17 **and intimidated you and challenged you to settle or**
18 **else, right?**

19 **A Yes.**

20 **Q But you didn't settle with them, right?**
21 **You actually litigated.**

22 **A And I angered them, yes.**

23 **Q But you didn't settle, you litigated with**
24 **them and you lost, correct?**

25 **A In a kangaroo court, yes, I did.**

1 **Q Now, you testified that you really want to**
2 **make your investors whole, correct?**

3 **A Yes.**

4 **Q And the most important thing is to, you**
5 **know, pay my investors back, right?**

6 **A That's correct.**

7 **Q Something you really, really want to do,**
8 **right?**

9 **A Right.**

10 **Q I think you testified, and maybe I**
11 **misheard you, but I think you said \$12 million isn't**
12 **a lot of money to me, I'll get back. Was that what**
13 **you said?**

14 **A Provided I'm not barred, I can get back on**
15 **my feet. Yes, I will.**

16 **Q But \$12 million isn't a lot of money to**
17 **you?**

18 **A It is a lot of money, sir, but again,**
19 **you're taking it out of context. All I'm trying to**
20 **say is the effort and the work and the hard work**
21 **that I do, given the right circumstances, I can**
22 **repay my investors back. I just need the**
23 **opportunity. A fair opportunity where I'm treated**
24 **fairly. That's all I ask. I don't have any -- I**
25 **will pick myself back up.**

1 **Q** Sir, how much money did you make in 2015?
2 How much are you going to declare on your
3 internal –

4 **A** I don't have the numbers.

5 **Q** Ballpark?

6 **A** I don't know. I would not guess.

7 **Q** \$100,000?

8 **A** No.

9 **Q** \$500,000?

10 **A** No.

11 **Q** More?

12 **A** Less.

13 **Q** Less. \$50,000?

14 **A** Maybe, yeah.

15 **Q** Since these proceedings began, since this
16 investigation began, you talked about you came in,
17 you were really helpful meeting with Mr. Aderton,
18 others on his team and that you came in all the
19 time, but you also mentioned that you were flying
20 off to Pakistan the next day or coming back right
21 after you got back.

22 **How are you paying for all the flights
23 back and forth to Pakistan?**

24 **A** I have some miles as well, a lot of credit
25 card miles. And I have some money, so I used it.

1 the SEC would have distributed it to the investors
2 like it did with the \$900,000. But you haven't
3 given any money to the SEC; is that right?

4 **A** That is correct.

5 **Q** But it's really important to you to make
6 your investors whole and get them some money back.

7 **A** Absolutely. And the only way I would do
8 that, it's not -- it will not -- the key thing is to
9 get myself back up, set up a company, set up
10 ventures and start paying them.

11 **Q** Your counsel asked you a number of
12 questions about being part of a public company,
13 being an officer or a director in a public company.
14 All these ideas that you said you have about doing
15 software, why can't you just do those in a private
16 company? Why do you need to be a public company
17 officer or director?

18 **A** Why shouldn't I? Why don't I have the
19 right to do it? Why? But because of these
20 allegations? But why is it that Goldman Sachs can
21 do it and they can get away? Why is it that Bank of
22 America can do it and why is it John Corzine can
23 commit fraud and be a part of a publicly traded
24 company? Why is it that Richard Fuld of Lehman
25 Brothers committed fraud of an epic proportion and

1 **Q** But you're not using any of the money that
2 you have available to pay back any of the investors.

3 **A** I cannot and I will not delay the
4 resolution of this. If I do that, I will be in
5 trouble. I will be construed as trying to side with
6 one investor. So whatever money I have -- it is
7 important that -- I don't have a lot. I mean, you
8 have all my financials and I know you have searched
9 every single thing between you and FINRA. So please
10 don't try to construe me as somebody who's got a lot
11 of money.

12 **What I am trying to do right now is trying
13 to get back on my feet. My life has been destroyed
14 by SEC and FINRA, especially by FINRA. I'm trying
15 to get back on my feet.**

16 **Q** You just said you can't pay any money back
17 because you don't want play favorites with any
18 investors. That would be really bad for you.

19 **A** Correct.

20 **Q** But according to the order that you agreed
21 to, the order that was issued by the Commission,
22 within 30 days, you were supposed to make payment of
23 \$27 million. Now, you may not have \$27 million, but
24 if you have any money, you could have made some
25 payment to the SEC in connection with that order and

1 he can be part of a publicly traded company.

2 **These guys committed fraud on an epic,
3 epic proportion. They are running away scot-free.
4 Not one action by the SEC. Not one. And you are
5 telling me that I can't be part of -- come on,
6 that's fair? I'm asking you a question. Do you
7 think that's fair? That's really fair? That's
8 called discrimination.**

9 **Q** Mr. Ahmed, you also testified about the
10 potential deal you tried to enter into with Mr.
11 Khokhar where he was going to buy your business,
12 right?

13 **A** Right.

14 **Q** And we heard Mr. Khokhar's testimony. You
15 were here. You heard him say he was only going to
16 give \$10.7 million, right?

17 **A** Okay.

18 **Q** You agree that's what he testified?

19 **A** Yes.

20 **Q** And that it wasn't his responsibility to
21 make the professional athletes and the other
22 investors whole, right?

23 **A** Right.

24 **Q** And I think you testified, well, you know,
25 whatever he would have done, paid \$10.7 million, you